F. No. AERA/20010/MYTP/BIAL /CP-II/2016-17/Vol-V
Airports Economic Regulatory Authority of India
AERA Building, Administrative Complex,
Safdarjung Airport, New Delhi 110 003

Dated the 04th September, 2018

Subject:- Revised Tariff Order no. 18/2018-19 dated 31.08.2018 in the matter of determination of aeronautical tariffs in respect of KIA, Bengaluru for the second control period (01.04.2016-31.03.2021).

Please refer to AERA's Order no. 18/2018-19 dated 31.08.2018 regarding determination of tariffs in respect of Kempegowda International Airport, Bangalore for the second control period (01.04.2016-31.03.2021) uploaded on AERA website and subsequent Corrigendum dated 04.09.2018.

2. Please find enclosed the Order no. 18/2018-19 dated 31.08.2018 along with **Revised Tariff Card** based on the Corrigendum dated 04.09.2018 on the above said Order.

3. The order No. 18/2018-19 uploaded on AERA's website on 31.08.2018 stands withdrawn from the website.

Encl.: As above

04/9/18
(Jaimon Skaria)
Sr. Mgr. (Fin.)
Tel.: 24695043

File No.: AERA/20010/MYTP/BIAL/CP-II/2016-17/Vol-V

Order no. 18/2018-19

सत्यमेव जयते

Airports Economic Regulatory Authority of India

In the matter of Determination of tariffs for Aeronautical Services in respect of Kempegowda International Airport, Bengaluru, for the Second Control Period (01.04.2016 to 31.03.2021)

Date of Issue: 31st August, 2018

AERA Building
Administrative Complex
Safdarjung Airport
New Delhi – 110 003

Contents

1 Introduction

1.1 Background about Kempegowda International Airport, Bengaluru (BIAL)

1.1.1 The airport at Devanahalli near Bengaluru has been developed on a Build, Own, Operate and Transfer (BOOT) model under Public Private Participation (PPP) basis. Bangalore International Airport Limited (BIAL) was formed as a joint venture of Private and Public sector agencies in order to develop and operate the airport. The Karnataka State Industrial and Infrastructure Development Corporation (KSIIDC), a Public Sector Undertaking of the Government of Karnataka (GoK) and Airports Authority of India (AAI), a Government of India (GoI) undertaking, together hold 26% equity and the strategic joint venture partners hold the balance 74%.

1.1.2 The GoI signed a Concession Agreement (CA) with BIAL on 5th July 2004. The CA defines the terms and conditions under which BIAL, as a private company, is entitled to build and run the airport. The term of the concession is for a period of 30 years from the Airport opening date i.e., 24th May 2008, extendable by a further period of 30 years at the option of BIAL. As per the CA, the activities of customs, immigration, quarantine, security and meteorological service will be performed by the relevant Government Agencies at the Airport and the Communication, Navigation & Surveillance (CNS) and Air Traffic Management (ATM) will be performed by AAI. BIAL shall, in consideration for the grant of concession by GoI, pay to GoI a fee amounting to four per cent (4%) of gross revenue annually. The Concession Agreement also contains a reference to the setting up an Independent Regulatory Authority (IRA) by the GoI for determining the regulated charges at the airport.

1.1.3 The GoK extended a soft loan of Rs. 350 Crores to BIAL as a state support for which a State Support Agreement (SSA) was executed by GoK with BIAL. Further, GoK has also provided 4008 acres of land (valued at approximately Rs. 175 crores) on concessional rent and a Land Lease Agreement (LLA) was also executed in this regard.

1.1.4 At the time of financial closure and commencement of construction, the Initial Phase of the Bengaluru International Airport (renamed as Kempegowda International Airport on 17th July 2013) was designed for handling about 4.5 million passengers per annum and the project cost was Rs. 1411.79 crore. However, owing to significant increase in aviation traffic, BIAL redesigned the initial phase midway through the implementation of the project, increasing the capacity of the airport to 11.4 million passengers per annum and the project cost to Rs. 1930.29 crore in order to maintain the service standards at required levels. The additional cost was met by taking more loans from lenders. Subsequently, certain project extension works were taken up with supplemental expenditure budget of Rs. 540 crores (which was funded partly by raising additional equity from the shareholders and partly by further additional debt from lenders) taking the total project budget to Rs. 2470.29 crores.

1.1.5 The airport commenced the operations in May 2008. The shareholding in the company changed a few times and the current Shareholding pattern is as follows:-

Table 1: Shareholding Pattern - BIAL - March 2018

Shareholder	Share- holding (%)
Private Promoters:	
Siemens Project Ventures GmbH	26%
Fairfax Group - FIH Mauritius Investments Limited	48%
Sub-Total	74%
State Promoters:	
Airport Authority of India – (GoI)	13%
Karnataka State Industrial Investment & Development Corporation Limited (GoK)	13%
Sub-Total	26%
TOTAL	**100%**

1.1.6 After the commissioning of the Airport, BIAL carried out certain activities to expand the capacity of Terminal Building. These were commissioned in the year 2013-14.

1.1.7 BIAL is currently engaged in the process of carrying out works relating to construction of second runway, second terminal building and allied airside and landside works. These are elaborated in Para 9 below.

1.2 Subsidiary

1.2.1 BIAL has investment in one subsidiary – Bangalore Airport Hotels Limited (BAHL). BIAL had acquired 100% of the shares in BAHL from its existing shareholders in December 2013. BAHL's principal activity is constructing, operating and maintaining of hotel at the Bengaluru Airport. BAHL has entered into a hotel operating agreement with the Indian Hotels Company Limited to operate its five-star hotel under "Taj" brand with effect from 5th December 2014. The Authority notes that the Hotel commenced its operations in the year 2016-17.

2 Multi Year Tariff Proposal (MYTP) submitted by BIAL

2.1 Multi-Year Tariff Order 08/ 2014-15 for the first Control period (MYTO-CP1)

2.1.1 The Authority issued Order No. 08/2014-15 (MYTO-CP1) determining the Aeronautical charges to be collected by BIAL for the first control period on 10th June 2014. The tariff Order had concluded that Single Till was the applicable Till for BIAL but allowed for collection of charges determined under a 40% Shared Revenue Till mechanism to facilitate availability of additional cash flows to fund the expansion of the Airport. The Order also stated that the difference in Revenue Requirement determined between Single Till and 40% Shared Revenue Till will be clawed back at the time of determination of tariff for the second control period. The Order also had detailed that no pre-control period shortfall or recovery was being assessed, as per the explanations detailed in the said Order.

2.1.2 The tariff provided in MYTO-CP1 was implemented with effect from July 2014.

2.1.3 Subsequent to the Order, BIAL had filed an appeal against the Order with Hon'ble Airports Economic Regulatory Authority Appellate Tribunal, New Delhi (AERAAT) in 2014. The said appeal is pending before the Appellate Authority.

2.1.4 Certain key grounds of appeal relate to the Till applicable to BIAL, Manner of treatment of Cargo, Ground Handling and Fuel Farm Services, Return on Equity, Treatment of Pre-control period losses etc.

2.2 MYTP submissions by BIAL for the second control period

2.2.1 BIAL made its initial MYTP submissions in March 2016. BIAL had subsequently responded to certain queries by the Authority during the period November 2016 to January 2017. During January 2017, BIAL had submitted that it was in the process of updating its Business Plan consequent to changes in the design of the proposed second terminal building.

2.2.2 BIAL had submitted the updated Business plan in April 2017. Subsequently, BIAL was requested to submit complete details relating to the proposed Capital Expenditure project, which was submitted by BIAL in June 2017 – July 2017.

2.2.3 As the costs estimated by BIAL were higher than the rates detailed under Authority's Order No. 07/ 2016-17, based on BIAL's request, the Authority appointed a consultant for evaluation of the Capital Expenditure proposals submitted by BIAL, in August 2017. The final report of the consultant was received on 25th January 2018.

2.2.4 Pursuant to BIAL's submission of its MYTP for the second control period, a series of discussions/ meetings were held on the tariff proposal based on Authority's review and clarifications were sought. The Authority received clarifications on Business Plan from BIAL in January 2018 – February 2018.

2.2.5 BIAL had submitted additional updates and submissions relating to proposed capital expenditure on 27th February 2018, 13th March 2018 and 21st March 2018. BIAL had also submitted details of accelerated / additional depreciation in April 2018.

2.2.6 The delay in time period of MYTP submission and evaluation between 2016 and 2018 is due to changes in Management at BIAL in March 2017, changes made in Business Plan due to changes in terminal sizing and other assets, further updates provided by BIAL on Capital Expenditure, time taken for review of the Capital Expenditure proposals by Consultant based on a request made by BIAL and related items.

2.2.7 The submissions made by BIAL, including updates and clarifications provided by it were analysed and discussed and based on the above, Consultation Paper 5/ 2018-19 dated 17th May 2018 in respect of Determination of Aeronautical Tariff in respect of Kempegowda International Airport for the second control period from 1st April 2016 to 31st March 2021 (hereinafter referred to as "Consultation Paper" in this document) was issued for comments from Stakeholders.

3 Stakeholders' comments on Consultation Paper No. 05/2018-19 and Order structure

3.1 Stakeholders' Responses received

3.1.1 Consultation Paper 05/2018-19 dated 17th May 2018 was put up by the Authority and a Stakeholder consultation was held on 18th June 2018 to discuss the views of the various stakeholders on the aforesaid Consultation Paper.

3.1.2 In response to the Consultation Paper, the Authority received several responses from stakeholders, by 5th July 2018, which were uploaded on the website of the Authority vide Public Notice No. 14/ 2018-19 dated 13th July 2018 for information of all the concerned stakeholders. The list of stakeholders, who have commented on the Consultation Paper No. 05/2018-19 is presented below.

Table 2: Summary of Stakeholders' comments to Consultation Paper 05/ 2018-19

Represented By	Stakeholders	Issues highlighted in brief
Government	Government of Karnataka	1. Capital Expenditure 2. Criticality of capacity expansion at BIAL and the proposition of revenue equalization.
Airlines and Associations	• International Air Transport Association (IATA) • Airline Operators Committee, Bangalore (AOC) • Business Aircraft Operators Association (BAOA)	1. Regulatory Till and Principles of Determination of Tariff. 2. Pre-Control Period. 3. Truing Up of First Control Period Aggregate Revenue Requirement (ARR). 4. Traffic Projections. 5. Capital Expenditure. 6. Allocation of Assets (Aeronautical and Non-Aeronautical). 7. Depreciation. 8. RAB for the Second Control Period. 9. Operating Expenditure. 10. Non-Aeronautical Revenues (NAR). 11. Cost of Equity, Cost of Debt and Fair Rate of Return (FRoR). 12. Working Capital Interest. 13. Quality of Service (QoS). 14. Aggregated Revenue Requirement. 15. Criticality of capacity expansion at BIAL and the proposition of revenue equalization. 16. Treatment of CGF services and standardizing

Represented By	Stakeholders	Issues highlighted in brief
		Fuel Throughput costs.
Airports and Associations	• GMR Hyderabad International Airport Limited (HIAL) • Cochin International Airport Limited (CIAL) • Association of Private Airport Operators (APAO)	1. Pre-Control Period 2. Treatment of non-airport activities (land development). 3. Treatment of CGF Revenues/ ICT and CIC revenues. 4. Treatment of notional income from non-aeronautical security deposits. 5. Treatment of Interest Income. 6. Revenues / Lease rentals earned from concessionaires providing aeronautical services. 7. Treatment of CSR costs. 8. Regulatory Till for true up. 9. Cap on true up of project expansion cost. 10. Treatment of BIAL's equity investment in the hotel for the purpose of FRoR determination. 11. Reduction in Opening RAB.
Aviation Service Providers	• Air India SATS Airport Services Pvt. Ltd. (AISATS) • Bharat Petroleum Corporation Limited (BPCL) • Bharat Stars Services Pvt limited (BSSPL) • Globe Ground India (Globe Ground) • Indian Oil Corporation Limited (IOCL) • Indian Oil Skytanking Private Ltd (IOSL) • Celebi Airport Services India Pvt. Limited (Celebi) • Menzies Aviation Bobba Private Limited (Menzies)	1. Criticality of capacity expansion at KIAB. 2. Treatment of revenues from CGF and rentals from leasing space. 3. Capital expenditure. 4. Tariff determination to support financial viability of airport and enable future capacity expansion. 5. Fuel Throughput cost. 6. Cash flow and future expansion of BIAL.
Investors	• FAIRFAX Financial Holdings Limited (Fairfax) • Siemens Project Ventures GmbH (Siemens)	1. Treatment of pre-control period. 2. Till application for first control period. 3. Treatment of CGF. 4. Allowing reasonable returns.

Represented By	Stakeholders	Issues highlighted in brief
		5. Tariff determination to support financial viability of airport and enable future capacity expansion.
Others	• Bangalore Political Action Committee (BPAC) • Consumer Care Society (CCS) • Sanjeev V Dyamannavar	1. Adjustment of excess User Development Fee ('UDF') collected by BIAL/ Collection of UDF. 2. Aeronautical revenues/ Reasonableness in determining charges other than LPH, PSF, UDF etc. 3. Pre-Control Period. 4. The growth in passenger traffic at KIAB, Traffic Projections and True up/ Requirement of a survey to forecast traffic. 5. Capital expenditure. 6. Non-aeronautical revenue. 7. Redressal of grievances and quality of service. 8. Capital mix used to fund future expansion. 9. CSR cost. 10. Consideration of Tariff based on 30% Hybrid Till. 11. Revenues from lounge and flight catering services. 12. Allocation ratio for fixed assets. 13. Depreciation. 14. Aggregate Revenue Requirement (ARR). 15. Commercial activities development at airport. 16. Tenure for the Interest Free Loan from GOK. 17. The cost of connectivity to airport from city. 18. Design, cost and alternative connectivity to the Eastern Tunnel project. 19. Treatment of CGF services. 20. Treatment of BAHL losses. 21. Payment of dividend to shareholders. 22. Allocation of operating expenditure. 23. Other matters

3.1.3 BIAL was asked to submit its responses to Stakeholder comments. BIAL submitted the same by 23rd July 2018. BIAL submitted updated Annual Tariff Plan on 29th August 2018.

3.1.4 Also, BIAL has submitted as follows:

"...The Hon'ble TDSAT has issued an Order dated 24.05.2018 in Appeal No. 3/2014 in respect of the appeal filed by BIAL in relation to the tariff determination for the First Control Period in respect of

KIAB. As part of the order, the Hon'ble TDSAT has noted that an early appeal hearing in respect of the tariff determination for the First Control Period for BIAL may take place. More importantly, considering that the Hon'ble TDSAT has noted that the consultation process for the tariff determination for BIAL in respect of the second Control Period is already underway, and held that "any authority, much less statutory authority, which is to regulate these matters shall have due regard to all the provisions of law including the judgement of this Tribunal." Therefore, it is clear from the Hon'ble TDSAT's order that the Authority shall refer to the judgment and order of the Hon'ble TDSAT dated 23.4.2018 in the case of DIAL ("TDSAT Order") while carrying out the tariff determination exercise for BIAL for the second Control Period. The judgment of the Hon'ble TDSAT has clarified the law in relation to multiple aspects of tariff determination, which are applicable across the board to all tariff exercises. BIAL requests the Authority to consider the judgement of the Hon'ble TDSAT since a statutory authority is required to consider and apply the principles laid down by an expert tribunal that exercises appellate jurisdiction over the authority. In this case, appeals from orders or directions of the Authority are to be filed before the Hon'ble TDSAT under Section 18 of the Airports Economic Regulatory Authority of India Act, 2008 ('AERA Act'). Therefore, it would be apposite for the Authority to consider the position of law as clarified by the DIAL judgment and apply the principles to the ongoing tariff determination exercise in respect of BIAL. We also request the Authority to re-work the principles and computations for the first control period as well, so as to bring them in conformity with the judgment of the Hon'ble TDSAT.

On the applicability of the judgements of the aforementioned TDSAT Order in the ongoing tariff determination exercise for KIAB, BIAL sought an opinion from Justice Sirpurkar, retired judge of the Supreme Court of India and former chairperson of Airports Economic Regulatory Authority Appellate Tribunal. Justice Sirpurkar vide para 1.5 of the opinion note acknowledged the similarity of facts between DIAL and BIAL and that the issues considered by the Hon'ble TDSAT in the matter of DIAL were "almost identical". He further stated that despite the above, the Authority had not made any reference to the judgement while issuing the CP. Justice Sirpurkar after documenting the facts of the case opined that the Authority should have reference to the TDSAT Order and apply its principles to the ongoing tariff determination exercise for BIAL. An extract from the aforementioned opinion has been reproduced below:

"... Therefore, it would be apposite for AERA to consider the position of law as clarified by the DIAL judgment and apply the principles to the ongoing tariff determination exercise in respect of the Querist. Pendency of appeals challenging the first tariff order of AERA in the case of Querist cannot deter AERA from revising its views since it is doing so based on the order of Hon'ble TDSAT dated 24.05.2018. AERA will be especially fortified by the observations in the order dated 24.05.2018, by which, AERA is expected to consider the judgment/s of the Hon'ble TDSAT. Therefore, AERA is required to consider and apply the principles laid down in the DIAL judgment. The pendency of the

appeals before the Hon'ble TDSAT should not preclude AERA from applying the principles laid down in the DIAL judgment and revising its views, if necessary, according to such principles...

I am therefore of the opinion that the judgment of Hon'ble TDSAT is bound to be taken into consideration by AERA white considering the proposals contained in Consultation Paper No.5/2018-19, in favour of the Querist."

Accordingly, we request the Authority to consider and apply the Hon'ble TDSAT's order in BIAL's appeal and give due regard to the principles adopted in the TDSAT Order while finalising the tariff order for the Second Control Period in respect of BIAL.

3.1.5 The Authority has carefully considered comments made by stakeholders, BIAL's responses to these comments and BIAL's comments on the Consultation Paper. The tentative position of the Authority in its Consultation Paper No 05/2018-19 dated 17th May 2018, issue-wise comments of the stakeholders on the Consultation Paper, the response from BIAL thereon, Authority's examination and its decisions are given in the relevant sections of the Order. The Authority has also evaluated the submissions made by BIAL against the relevant paras of the TDSAT Order relating to Delhi.

3.2 Structure of the Order

3.2.1 Each chapter is structured in the following manner (to the extent applicable) where discussion on each issue has been segregated into six sections:

3.2.1.1 First section presents a summary of BIAL's submissions on the relevant issue at the consultation stage.

3.2.1.2 Second section presents a summary of the Authority's discussion on the issue, as presented in the Consultation Paper.

3.2.1.3 Third section presents the comments made by the Stakeholders to the Authority's proposals stated in the Consultation Paper.

3.2.1.4 Fourth section presents the response submitted by BIAL to the comments made by the Stakeholders on the issue.

3.2.1.5 Fifth section presents the comments made by BIAL itself on the issue.

3.2.1.6 Sixth and final section presents the Authority's examination of Stakeholders' comments, BIAL's responses and BIAL's comments on that issue and decisions thereof.

3.2.2 This Order of the Authority considers the proposals of BIAL, views expressed by the Stakeholders in the meeting, written submissions received from stakeholders and examination by the Authority with reference to its guidelines for Airport Operators.

3.2.3 Decisions taken by the Authority on various issues in respect of BIAL are summarized in Para 20 below at the end of this Order.

4 Framework for Determination of Tariff for BIAL

4.1 Regulatory Principles detailed by the Authority in Consultation Paper

4.1.1 The Authority had issued Order No.13/2010-11 dated 12th January 2011 – "In the matter of Regulatory Philosophy and Approach in Economic Regulation of Airport Operators" (Airport Order) and "The Airports Economic Regulatory Authority of India (Terms and Conditions for determination of tariffs for Airport Operators) Guidelines, 2011" dated 28th February 2011 (Airport Guidelines). These form the guiding principles of the Authority's tariff determination methodology for Airport Operators.

4.1.2 The Authority later issued Order No. 14/ 2016-17 on Till applicable for determination of Aeronautical Tariffs. Extract of the Order is as stated below:

"... The Authority will in future determine the tariffs of major airports under "Hybrid Till" wherein 30% of non-aeronautical revenues will be used to cross-subsidize aeronautical charges. Accordingly, to that extent the airport operator guidelines of the Authority shall be amended. The provisions of the Guidelines issued by the Authority, other than regulatory till, shall remain the same..."

4.1.3 The Authority had, in the Consultation Paper, proposed to true up the ARR for the first control period based on 40% Hybrid Till and to adopt a 30% Hybrid Till for the Second Control Period. The decision to adopt 30% Hybrid Till for the second control period is in line with the amended guidelines of the Authority. The details of Till adopted for True up and the reasons therefor are explained in Para 6 below.

4.1.4 The Authority had commissioned an independent evaluation of the Capital Costs proposed to be incurred in the second control period in accordance with Order No. 07/ 2016-17 of the Authority on "Normative Approach to Building Blocks in Economic Regulation of Major Airports", based on request by BIAL to review the cost estimates. This is elaborated in detail in Para 9 below.

4.1.5 The Authority has also issued Order No. 35/ 2017-18 together with Amendment No. 01 to Order No. 35/ 2017-18 detailing the useful lives of Airport Assets effective from 1st April 2018 and this is also considered in this Order. This is elaborated in detail in Para 10 below.

BIAL as a standalone entity

4.1.6 The Authority has considered BIAL as a stand-alone entity based on the accounts of BIAL without any consolidation with its subsidiary or considering the balance sheets and income statements of the subsidiary. The equity of BIAL at Rs. 1289 crore as on 01.04.2016, as a stand-alone entity, is taken into account for further consideration.

RAB boundary

4.1.7 Under Hybrid Till, the Authority considers only capitalized projects for providing Aeronautical services as a part of the Regulatory Asset Base.

4.1.8 The principles for exclusion of assets from RAB Boundary are presented below:

4.1.8.1 The assets that substantially provide amenities/ facilities/ services that are not related to, or not normally provided as part of airport services, may be excluded from the scope of RAB;

4.1.8.2 The assets that in the opinion of the Authority do not derive any material commercial advantage from the airport (for example from being located close to the airport) may be excluded from the scope of RAB;

4.1.8.3 The Authority will not include working capital in the RAB.

4.1.8.4 In the current scenario where the tariffs are being determined based on 30% shared till, the RAB would have to exclude the portion of assets attributed to the provision of non-aeronautical services. Only a cross-subsidy from non-aeronautical revenues shall be considered for the purpose of tariff determination.

Recognition of revenue from Cargo, Ground Handling and Fuel Farm (CGF) Operations

4.1.9 As per the provisions of the AERA Act, the Authority considers the services rendered in respect of Cargo, Ground handling and supply of Fuel (CGF) as aeronautical services.

4.1.10 The Authority also noted a letter dated 24th September 2013 issued by the Ministry of Civil Aviation to the Authority in respect of Consultation Paper No. 14/2013-14 issued with reference to tariff determination for BIAL for the first control period, where the Ministry has informed its views to the Authority as under:

"………

4. Furthermore, in view of the various provision of AERA Act, 2008 with respect to the Aeronautical Services, the Fuel Throughput Charge that is levied by Airport Operator may be considered as Aeronautical revenue in the hands of the Airport Operator. The revenues from cargo, ground handling services and fuel supply which are defined as Aeronautical Services in the AERA Act, 2008 may be reckoned as Aeronautical Revenues and considered accordingly irrespective of the providers of such Aeronautical Services."

4.1.11 The Authority also was of the view that unless the Concession Agreement explicitly grants a concession, the provisions of AERA Act should prevail and in the case of Bengaluru Airport, the Concession agreement did not specifically classify the services into Aeronautical and Non-Aeronautical. The Authority proposed to thus keep its stand and continue treating CGF revenues as Aeronautical.

4.1.12 The Authority also proposed to consider any revenue including rent earned by BIAL from Concessionaires providing Aeronautical services as Aeronautical revenues.

Treatment of Income from Real Estate Development

4.1.13 The real estate development by an Airport operator through commercial exploitation of land leased or granted to it, which is in excess of the airport requirement, would normally be outside the RAB boundary. This also implies that the revenues from commercial exploitation of such lands would, in normal course, not enter into the calculation of revenues required for aeronautical tariff determination. However, there may be such circumstances, which the Authority may be required to take into account (like special covenants in the Concession Agreement or Lease Deed etc.) that may require separate consideratlon for taking revenues from real estate development into calculation of aeronautical tariffs.

4.1.14 The Authority, in Decision 7(a)(iii) of MYTO-CP1 stated as follows:

"...To take into account the manner and treatment of considering the receipts from commercial exploitation of land (both Capital and Revenue) to be reckoned towards determination of Aeronautical Tariffs based on appropriate response to be received from GoK and take the same into account for the purposes of truing up the tariff computations for the current control period while determining Aeronautical tariffs in the next control period..."

4.1.15 Based on the above context and as per the background detailed in the land lease agreements to make the Airport Project viable and bankable and given the scenario of following a 30% shared till (compared to a single till), the Authority proposed to consider property development akin to a non-aeronautical activity. Accordingly, the income from property development would be used to cross-subsidize airport operations to the extent of 30%. Any expenditure associated with these revenues would not be allowed through RAB or Operating Expenses.

4.2 Stakeholder comments on Regulatory Principles detailed by the Authority in Consultation Paper

4.2.1 IATA has commented as follows:

***"...Regulatory Till and Principles of Determination of Tariff**: - IATA has objected to the unjustified application of the 40% hybrid till for the determination of the first control period tariff. Although this will be reduced to 30% by AERA to align with the National Civil Aviation Policy for the second control period, we find it important to once again emphasis our disagreement of shifting from Single to a Hybrid till basis as it unnecessarily increases costs for consumers. In this regard, it is a great disappointment that AERA has proceeded to adopt the hybrid till approach, which will make aeronautical charges more expensive and goes against the fundamental requirements to boost air connectivity as envisaged by the National Civil Aviation Policy 2016 in a sustainable manner.*

IATA supports the recognition of revenues from Cargo, Ground Handling and Fuel Farm services and rentals from leasing space as aeronautical revenues."

4.2.2 APAO has stated the following:

"...The Authority has proposed to consider Cargo, Ground Handling and Fuel Farm (CGF) as aeronautical activities based on the provision of the AERA Act and considered revenues from such activities as aeronautical revenues.

...Section 13 of the AERA Act mandates the Authority to consider the concession offered to the airport operators by the Central Government alone with the other agreements, which are a crucial part of such concession. The Act states that different tariff structures may be determined for different airports having record to all or any other considerations specified at Sub-clauses (i) to (vii). The Authority is therefore, statutorily obligated to consider all the concessions offered to the airport operators by the Central Government and other stakeholders while determining tariff for aeronautical services.

Clause 10.2 of the Bangalore International Airport Limited's (BIAL) Concession Agreement states that tariff regulation is only to be restricted to Airport charges defined as "Regulated Charges" as specified under Schedule 6 of the Concession Agreement (including Landing, Housing & Parking Charges, Passenger Service Fee and User Development Fee). Further, clause 10.3 of the Concession Agreement makes it clear that apart from the "Regulated Charges". BIAL is free to determine the charges for facilities and services which are being provided at the Airport "without any restriction". Therefore, based on a joint reading of Clauses 10.2 and 10.3 it is understood that while the "Regulated Charges" are to be determined by the Authority, the other charges should not come within the regulator purview.

While from the concession agreement it is clear that CGF revenues are to be considered as non-aeronautical, however the Authority has proposed to consider CGF as aeronautical activities. We believe that the Authority's proposal is not in line with the provisions of the Concession Agreement, thereby defeating the spirit / intent of the Concession Agreement and this undermines the freedom granted to BIAL by the concession agreement to determine these charges as per Clause 10.3 of the Concession Agreement.

Further, even the Information Communication Technology (ICT) and Common Infrastructure Charges (CIC) revenue also needs to be treated as non-aeronautical revenues in line with above concession agreement provisions. In fact, the inviolability of Concession Agreements has also been reiterated in the Tribunal's Order (hereinafter referred to as the "TDSAT Order") dated 23 April 2018. The Order upheld that the concessions offered to the airport operator deserve due respect and consideration by AERA in the tariff determination exercise..."

.....

As a key industry stakeholder, we would like to point that the Authority's current proposal would lead to creation of regulatory uncertainty in the operating environment. .... Regulatory treatments that are inconsistent with the concessions allowed to the airport investors in the concession agreement and other related agreements may have an adverse impact on investors' confidence, thereby hurting the growth prospects of the Industry..."

We have observed that the Authority has considered revenues from property development activities as non-aeronautical revenues. We would like to reiterate our submissions made above that as per Article 10.3, BIAL is free to determine charges "without any restrictions" for activities other than the "Regulated Charges" defined in Schedule 6 of the Concession Agreement. Further, we would like to submit that Schedule 3 of the Concession Agreement clearly defines commercial property development including hotels, SEZs, business parks, commercial buildings and commercial complexes as non-airport activity and the agreement does not envisage cross-subsidization of the aeronautical revenues using the revenues from non-airport activities.

Also, according to Clause 4.1 of the Land Lease Deed (LLD), BIAL can undertake both airport and non-airport activities without seeking any prior permission. In addition, we would like to highlight that the development of a Greenfield airport (like BIAL and GHIAL) involves high level of investment and are fraught with risks and therefore, the grant of land for commercial purposes over the concession period was aimed at, as a commitment forming part of Concession Agreement, generating additional revenue sources to ensure sufficient returns.

In such a scenario, the Authority's proposal in the consultation paper is against the assured commitments in the Concession agreement as well as the Land Lease agreement. This would significantly affect the feasibility of the non-airport activities. The supremacy of the Concession agreement has also been upheld in the TDSAT Order as has been mentioned earlier.

We would also like to point that there is precedence, where in the regulator has kept the income from landside property development outside the Till in consideration of the concession provision.

In view of the above, the Authority is requested to undertake the tariff determination exercise having consideration to the provisions of the LLD and the Concession Agreement and treat commercial property development outside the purview of regulation / regulatory till..."

"...The Authority has proposed to consider revenues earned by BIAL from aeronautical service providers as aeronautical revenues.

Typically, airline companies and other aviation agencies require space within the terminal building to carry out their day-to-day business operations. We would like to draw the Authority's attention to para 2.4.1 of Consultation Paper No. 05/2018-19, wherein "airline offices" have been defined as non-aeronautical services by the Authority itself.

Even as per the AERA (Terms and Conditions for Determination of Tariff for Airport Operators) Guidelines. 2011 ("Airport Guidelines") airline offices have been recognized as "Commercial office areas". These areas are to be treated as "Revenue Generating Areas" alongside retail, advertisement, ticketing, duty free shops and car parking, as prescribed in Form F3 of the Airport Guidelines.

Also, we would like to refer to ICAO's Airport Economics Manual (Doc 9562), which provides a list of "Revenues from non-aeronautical activities". According to para 4.23, non-aeronautical activities includes rentals payable by aircraft operators for airport owned premises and facilities (e.g. check-

in counters, sales counters and administrative offices) apart from those which have already been covered under "air traffic operations".

In order to ensure that principles adopted globally are implemented in the country and interests of the airport operators are not unduly compromised, we would request the Authority to have a uniform approach and consider lease rentals as non-aeronautical revenues."

4.2.3 BAOA has stated the following:

"... past wrong practice of considering GH, FTC and Cargo Services as non-aeronautical. These services are aeronautical in nature and must be regulated by AERA..."

4.2.4 BPCL has stated the following:

"...We concur and agree that revenues from Cargo, Ground Handling and Fuel Farm Services and rentals from leasing of space to agencies inter alia including facilities of Fuel Farm service providers and ITP (Into Plane Operators) should be treated as Aeronautical charges and regulated by AERA..."

"... Rentals charged area at very high rates and in most cases have no relevance to charges paid by the Airport Operator to the land provider or the fair market values. Our view is that AERA may consider regulating these charges and devise a formula for rentals which may be linked to the actual cost to the airport operator or the market rate (may be the circle rate) as the case may be..."

4.2.5 BPAC has stated the following:

"...KIAL has requested AERA to consider Cargo, Ground Handling and Fuel Throughput (CGF) services under Non-Aeronautical revenue, citing the MoCA directive in the case of DIAL and GHIAL. We would like to bring it to your notice that in the Concession Agreement (CA) between MoCA and KIAL and also as per Section 2(A) of AERA Act, CGF are to be considered as Aeronautical revenue.

KIAL in its submission to AERA has requested for a 30 per cent Shared Revenue Till (SRT) in truing of pre and 1st Control Period. This implies that 30 per cent of the income from Non-Aeronautical services can be used to subsidize the tariffs under Aeronautical services. Therefore, considering Cargo, Ground Handling and Fuel Throughput (CGF) charges under Non-Aeronautical Services would increase the burden on UDF charges in the second control period. We request AERA to continue considering CGF charges under Aeronautical revenue..."

4.2.6 CIAL has stated the following:

"...Treatment of Income from Real Estate Development

AERA's treatment - "To consider revenues from Property development activities as Non – Aeronautical activity."

As per clause 5.2.1 (b), of Airports Economic Regulatory Authority of India (Terms and Conditions for Determination of Tariff for Airport Operators) Guidelines, 2011, The assets that substantially provide amenities/ facilities/ services that are not related to, or not normally provided at an *airport, may be excluded from the scope of RAB and the same shall be excluded from the computation of Aggregate revenue requirement to be covered from aeronautical services. Further clause 5.2.1 (b) (5) of the mentioned order stipulates that, the Authority shall require the Airport Operators(s) to insulate the Users by suitably ring fencing the assets excluded from the scope of RAB. Hence as per the cited clause, the entire financial risks associated with non-airport related projects rest with Airport company, however, the present treatment mentioned in the consultation paper, if implemented, will deviate from authority's own stand in this regard.*

Treatment of lease rentals from aeronautical service providers as aeronautical revenues. - AERA's Treatment

" 2.5.4 The Authority also proposes to consider any revenue earned by BIAL from concessionaries providing Aeronautical services as Aeronautical revenues (For ex. space to AAI etc.)."

In the cited consultation paper, the authority has considered the space rentals received from concessionaries providing aeronautical services are aeronautical income. As the principle nature of service rendered for generation of space rentals, is the letting out of space, which is fundamentally a non – aeronautical services. Further, as per para 4.23 ICAO's Airport Economics Manual (Doc 9562), rentals payable by aircraft operators for airport-owned premises and facilities (e.g. check-in counters, sales counters and administrative offices) are included in the list of Non-aeronautical services. Moreover, in recent TDSAT Order, in the case of DIAL, it was held that the essence of services has to be considered for determining a service to be aeronautical or non-aeronautical. Hence in view of the above facts, authority may consider the space rentals received from concessionaires providing aeronautical services as Non-aeronautical income..."

4.2.7 FAIRFAX has stated the following:

"...Cargo, Ground Handling and Fuel (CGF) revenues considered as aeronautical revenue in contravention to the provisions contained in the Concession Agreement.

In reference to Article 10.2 and Article 10.3 of the Concession Agreement together with schedule 6, the CGF services and corresponding revenues were not provided as a part of "Regulated Charges". Accordingly, CGF revenues are not to be considered as aeronautical revenues and not to be utilized for any cross – subsidization. However, contrary to Concessional Agreement provision, CGF revenues were considered by AERA as non – aeronautical revenues and substantially impacting the commitment that were made as part of the Concession Agreement and other Project Agreements.

We hereby request AERA to consider the similar treatment as provided in case of Mumbai and Delhi airports in adherence to provisions of the Concession Agreement and ensure that CGF revenues were considered as non – aeronautical revenues while determining tariff for Bangalore airport.

Treatment of Real Estate as non – aeronautical income is not as per Concession Agreement

As part of the bidding process in order to attract potential investors, certain incentives were provided in BIAL Concession Agreement. The project Agreement consisting of land lease deed, *allows the utilization of land for airport activities and non – airport activities. The non – airport activities refer to Hotel, Commercial building, SEZ which are in real estate realm and not connected with airport business. The recent Consultation paper proposes cross – subsidization from Real Estate which was not in line with the provisions of Concession Agreement, Land Lease Deed and other Project Agreements. Any dilution of commitments as provided in the project agreements will severely affect the investments in the project.*

The Real estate requires considerable investment; entrepreneurial acumen and risk-taking ability and return on these investments accrue after a long gestation period. Cross – Subsidization from these revenues will prove detrimental to attract further investments in the sector and hence we request that the AERA should keep these activities outside the purview of regulation and hence the same should not be considered as a part of regulatory till..."

4.2.8 Siemens has stated the following:

"...Treatment of Cargo, Ground Travelling & Fuel farm revenues and Income from Non-Airport activities:

Certain proposals of the Authorities Consultation Paper No.05/2018-19 are contrary to the CA of the Bangalore international Airport. The Concession provides that regulated charges would include landing, Housing, Parking, PSF and UDF Charges. Accordingly, Cargo, ground handling and fuel farms services & corresponding charges which come under "Other Charges" are not part of Regulated and therefore treated as Non-Aeronautical Charges.

Further, Real Estate activity such as Hotels, Commercial complexes etc. are defined under "Non Airport" activities in the CA. The CA and other project related Agreements clearly provides the principles wherein the operator would continue with "Non-Airport" Activities beyond the Concession period. Hence, the "non airport" activities & corresponding income/losses needs to be kept outside the purview of till Mechanism.

We hereby request the AERA to consider the similar treatment as provided in case of Mumbai and Delhi airports, to consider CGF revenues as Non-Aeronautical revenues while determining tariff for Bangalore airport.

Treatment of Real estate not as per the Concession Agreement

As part of the Bidding process in order to attract the Potential Investors, certain incentives were provided in the BIAL concession Agreement. The Project Agreement consisting of land lease deed, allows the utilization of land for airport activities and non-airport activities. The non-airport activities refer to Hotel, commercial building, SEZ which are in real estate realm and not connected with the airport business. The recent Consultation Paper proposes cross subsidization from real estate, which was not on line with the provision of project agreement. Any dilution of Commitments as provided in the project agreements will severely affect the investments in the project.

Given the provisions of the concession agreement regarding the non- airport activities, AERA should keep these activities outside the purview of any Regulation and the same should not be considered as a part of regulatory till..."

4.2.9 HIAL has stated the following:

"...Revenue from Non-airport activities (Land development) considered as non- aeronautical revenue"

Authority in its consultation paper no 5/2018-19 has considered revenue from Non-Airport activities as part of non-aeronautical.

As per schedule 3, Part 2 of the concession agreement, activities pertaining to CPD land are non-airport activity and accordingly is out of AERA purview. Also, it is outside the aeronautical service as defined in the AERA Act.

The purpose of the land given for Non- Airport activities is for development of and to serve the larger objective of industrial development, general economic and social development. Airport project in India generally unable to generate fair rate of return on investment only by airport operations and real estate is the one of the source of funds to recoup the short fall. Land in excess of the airport requirement was leased out to make the project feasible.

AERA by cross subsidizing aeronautical charges by non-airport activity is not honouring the terms of the concession and consequently the AERA Act, which made a mention that existing concession, should be honoured. Accordingly, we submit that AERA should not consider the revenues from non-airport activities for the purpose of cross subsidy.

Revenue from Cargo, Ground Handling and Fuel:

Authority in its determination of tariff has considered Cargo, Ground handling and Fuel services as regulated (Aeronautical) in Nature. The consideration of the Authority as such is in contradiction to the AERA Act and the concession agreement, which is amply clear from the following:

AERA ACT 2008: The section 13 of the Act defines the functions of the Authority, which is binding in nature of all parties. The section 13, sub section (a) (vi) under the functions of the Authority states as follows:

" ....the concession offered by the Central government in any agreement or memorandum of understanding or otherwise.."

It is amply clear from the above provision that the concession agreements are preserved under the act for all purposes. Further the section 13(1) (a) of the AERA act states that:

"Different tariff structures may be determined for different airports having regard to all or any of the considerations specified at the sub-clauses (i) to (Vii)"

The above exemplifies the intent of the statute that the authority based on the provision, which include the concession agreement, can follow different tariff structures.

ii. Concession Agreement:

The concession agreement at the chapter 10 deals with the charges to be levied at the Airport. The section 10.2.1 related to the regulated charges to be levied which states as below:

".... 10.2.1 The Airport charges specified in schedule 6 ("Regulated Charges")"

Further reliance is also placed on the definition of regulatory charges which in terms of the concession is as follows:

"Regulated charges" shall be defined in article 10.2.1

The above section clearly defines the Airport charges under Schedule 6 of the concession agreement following are the regulated charges:

a. Landing, Housing and Parking Charges (Domestic and International)

b. Passenger service Fee (domestic and international)

c. User Development Fee (UDF) (domestic and International)

Since above charges are regulated these are classified as Aeronautical Charges.

It is further substantiated by the section 10.3 of the concession agreement that the authority has no jurisdiction to regulate the charges other than specified in schedule 6 stated above. The section 10.3 states as follows

"... BIAL and/or service provider Right holders shall be free without any restriction to determine the charges to be imposed in respect of the facilities and services provided at the Airport or on the site, other than facilities and services in respect of which Regulated charges are levied.". (Emphasis added)

In a recent judgment dated 23rd April 2018 in the case of DIAL, The TDSAT has stressed on honouring the concession agreement. Accordingly, as per concession agreement, the revenue streams apart from Aeronautical charges will be termed as Non- Aeronautical which will include retails, space rental, advertisement, duty free and also include Cargo, Ground Handling and Fuel.

iii. ICAO Policies: Clause 10.2.1 of the concession Agreement clearly stated that the regulatory charges shall be in accordance with the ICAO policies. In this regard, ICAO Document No. 9562 clarified that the revenues from Ground handling and Fuel services shall be non-aeronautical revenues. The ICAO Document No. 9562 stated as follows:

"Revenues from ground –Handling charges

This refers to charges and fees collected from aircraft operators for the use of facilities and services provided by the airport for the handling of aircraft. It should be noted that at the majority of airports ground handling is largely carried out by one or more airlines or special ground- handling enterprises. In the latter case, the airport will impose concession and/or rental fees, which should be recorded as revenues from non-aeronautical activities.

Revenue from non-aeronautical activities

Aviation fuel and oil concessions (Including throughput charges). All concession fees, including any throughput charges, payable by oil companies or any other entities for the right to sell or distribute *aviation fuel and lubricants, should be entered in the revenue accounts covering "Other concessions and commercial activities operated by the airport" (Emphasis supplied)*

AERA, while considering the cargo, ground handling and fuel ("CGF") services as aeronautical services failed to consider that in terms of schedule 6 of the concession agreement, the CGF facilities do not fall under regulated charges. Furthermore, Section 13(1) (vi) of the act requires the AERA to consider the concession agreement. Thus, on conjoint reading of the concession agreement and the Act, AERA is not mandated to regulate any 'other charges' in respect of the facilities and services provided at the airport and CGF should be outside the regulations.

AERA while relying solely on the definition of aeronautical services under section 2(a) of the AERA Act to include the CGF within the ambit of aeronautical revenue AERA has completely disregarded the mandate of the section 13(1)(vi) to give effect to the concession agreement.

In the case of the BIAL, since one of the concession granted by the central government is that save for the 'Regulated Charges', BIAL, shall be free without any restriction to determine all other charges. Thus, on a reading of section 13(1)(a)(vi) of the AERA Act read with Article 10.2 and 10.3 of the concessional agreement stated above, AERA cannot regulate any other charges in respect of the facilities and services provided at the airport including the other Aeronautical services as defined in section 2(a) of the AERA Act.

Accordingly, AERA ought to consider the categorization of the services of the services as provided under the definition of the Act. However, when a specific categorization has been provided by way of a concession granted by the central government ought to prevail over the categorization provided in the Act.

Accordingly, the decision of the AERA to include CGF revenues within the aeronautical revenues is not only against the concession agreement but also against the principle laid down by the ICAO, which it is mandated to consider by virtue of Section 13(1) (VI) of the act.

Revenue earned by BIAL from concessionaire:

The Authority proposes to consider any revenue earned by BIAL from concessionaries providing aeronautical services as aeronautical revenues (for ex. Space to AAI etc).

AERA in its previous consultation paper and order have considered rentals as non-aeronautical in nature owing to it being commercial transaction. Departure from the principle already established is not called for. Considering the illustration given by the authority we understand that the authority intends to consider the lease rental earned by BIAL from the space let out to AAI etc. In this regard we would like to submit that the providing space is not an aeronautical service as far as Airport operator is considered. Letting out space is non-aeronautical in nature & it should be treated accordingly. Authority's approach of considering this as aeronautical revenue is against the terms of concession Agreement. In this context we would like to give reference of ICAO 9082 document, which states as follows:

"Revenues from Non-aeronautical sources- Any revenues received by an Airport in consideration for the various commercial arrangements it makes in relation to the granting of concessions, the rental or leasing of premises and land, and "free-zone" operations, even though such arrangements may in fact apply to activities that may themselves be considered to be of an aeronautical character (for example, concessions granted to Oil companies to supply aviation fuel and lubricants and the rental of terminal building space or premises to aircraft operators). Also intended to be included are the Gross revenues, less any sales tax or other taxes, earned by Shops or services operated by Airport itself." (Emphasis added)

Based on the above all rentals to be considered non-aero irrespective of the service as it is a commercial consideration..."

4.2.10 Sanjeev V Dyamannavar has submitted as follows:

"Aeronautical revenue: Cargo, Ground Handling and Fuel Throughput (CGF) services should be considered under Aeronautical revenue and AERA should not entertain the KIAL request.."

4.3 BIAL's comments to Stakeholders' comments on Regulatory Principles

4.3.1 On BAOA's comments, BIAL has submitted as follows:

"BAOA has supported the Authority's proposal of considering CGF Services as aeronautical in nature.

BIAL disagrees with BAOA's approach and the Authority's treatment of CGF activities and has submitted its rationale through a detailed response in this regard in BIAL's response to the CP.

The Clause 10.2.1 of the CA states that the Regulated Charges shall be in accordance with the ICAO Policies. In this regard, ICAO Document No. 9562 has stated that aviation fuel and oil concession including throughput charges are revenues from non-aeronautical sources. Also, BAOA has stated that historically FTC has formed part of non-aeronautical revenues. A mere increase in charges does not change the nature of services and need for change in regulation.

We support BAOA's contention that oil companies should be advised, through Ministry of Petroleum & Natural Gas, not to treat FTC as a pass-through charge and BIAL submits that the same should be borne by the Oil Companies given the profitability and growth potential in the business."

4.3.2 BIAL has concurred with comments made by HIAL, CIAL and APAO.

4.3.3 On BPAC's comments, BIAL has stated the following:

"....At the outset, BIAL submits that B.PAC is not a 'stakeholder' as per definition of 'stakeholder' provided in Section 2(o) of the Airports Economic Regulatory Authority of India Act, 2008 ('AERA Act') read with the AERA's Guidelines on Stakeholder Consultation dated December 14, 2009 (as amended on March 24, 2011). However, without prejudice, BIAL submits as under:

BIAL notes that B.PAC had initially submitted its observations and comments on the CP to the Authority vide letter dated 18.06.2018 and subsequently through a more comprehensive submission via letter dated 04.07.2018. When BIAL became aware about B.PAC taking up their concerns with AERA, BIAL had pro-actively got engaged with B.PAC to explain and make them understand airport operations, the regulatory process, tariff determination process, capex decision making process, etc. BIAL took this initiative as we believe in the importance of being transparent and also as we realize that the regulated tariff determination process could be complex for some to comprehend.

BIAL submits that as per Schedule 3 Part B of its CA, commercial property development including hotels has clearly been defined as a non-airport activity. Further, the CA, LLD and other project agreements provides that Non-Airport Activities of BIAL would continue beyond the concession period. The Clause 4.1 of the LLD clearly permits BIAL to undertake both airport and non-airport activities without seeking prior permission. The LLD does not envisage any form of cross-subsidization of airport activities and doing so will go against its principle objectives. Accordingly, the risk and rewards of the real estate business is to be left to BIAL. The treatment of real estate as per the CA and other project agreements is detailed in BIAL's response to the CP and accordingly, it should be kept outside the regulatory purview. Consideration of B.PAC's assertions would require the authority to travel outside its jurisdiction. Section 13(1)(a) confers jurisdiction on the authority to determine aeronautical tariffs and to perform this function in respect of major airports. Non-Airport activities are by definition not activities that are covered under the AERA Act or within the jurisdiction of the authority, and therefore BIAL requests authority to not accept submissions of B.PAC's with regard to non-airport activities.

Without prejudice, BIAL submits that commercial exploitation of land has to be evaluated on the basis of investments, return and market conditions and BIAL submits that this aspect is fully outside the regulatory purview and that B.PAC cannot raise issues that are beyond the tariff determination exercise and beyond the jurisdiction of the Authority. Further, the same has been detailed out in Annexure 1 for necessary consideration by Authority.

B.PAC has requested the Authority to continue considering CGF revenue as aeronautical revenues.

BIAL disagrees with B.PAC's comment on the Authority's treatment of CGF activities and has submitted its rationale through a detailed response in this regard in its response to the CP, wherein it has highlighted provisions of its CA, which allows for CGF being treated as non-aeronautical in the case of BIAL.

As per Article 10.3 of the Concession Agreement read with Schedule 6, only charges pertaining to Landing, Parking, Housing, PSF and UDF are to be regulated. Hence, BIAL is free to determine charges to be imposed in respect of other services such as CGF provided at the Airport or on the site. Therefore, considering CGF services as aeronautical charges would indirectly amount to *treating them as Regulated Charges; and would defeat the intent of the CA. The TDSAT Order directs the Authority to honour the rights/concessions under various project agreements...."*

4.3.4 On BPCL's comments, BIAL commented as follows:

"BPCL has supported the Authority's proposal of considering revenues from CGF as Aeronautical. The premise of the Authority to consider CGF as Aeronautical revenue based on definition under section 2(a) of the AERA Act is in disregard to the mandate of Section 13(1) (vi) to give effect to CA, which allows for CGF being treated as Other than the Regulated Charges. Accordingly, CGF services would be required to be treated as non-aeronautical in the case of BIAL.

In addition, BIAL also does not support BPCL's endorsement of the Authority's proposal to consider rentals of leasing space to aeronautical service providers as aeronautical revenues as letting out of space is non-aeronautical in nature and needs to be treated accordingly. BIAL has substantiated its point based on the Authority's Airport Guidelines & ICAO's Airport Economics Manual in the detailed submission as response to CP...."

4.3.5 On comments from Sanjeev V Dyamannavar, BIAL has submitted as follows:

Respondent has requested the Authority not to entertain BIAL's submission of considering CGF as non-aeronautical services.

As part of its response to the CP, BIAL has highlighted provisions of its CA, which allows for CGF being part of 'Other than the Regulated Charges' and accordingly being treated as non-aeronautical in the case of BIAL.

4.3.6 On comments from IATA, BIAL has submitted as follows:

"...BIAL contests IATA's submission to consider rentals from leasing space to aeronautical service providers as aeronautical revenues. BIAL would like to reiterate its submission made in response to CP citing the Terms and Conditions for Determination of Tariff for Airport Operators Guidelines, 2011 (Airport Guidelines), where the lease rentals from commercial offices are categorized under non-aeronautical revenue.

Further, para 4.23 of ICAO's Airport Economics Manual (Doc 9562), provides a list of "Revenues from non-aeronautical activities" outlining the list of non-aeronautical activities includes rentals payable by aircraft operators for airport-owned premises and facilities. This includes rentals payable by aircraft operators for airport-owned premises and facilities. They have submitted that lease rentals by virtue of their nature are non-aeronautical and accordingly, there is no reason for considering them as aeronautical revenues. Accordingly, they need to be considered as non-aeronautical revenues..."

4.4 BIAL's comments on Authority's analysis of Regulatory Principles

4.4.1 BIAL has submitted as follows:

Approach adopted towards Regulatory Till and principles of determination of Tariff

BIAL's Response

Treatment of CGF, CIC and ICT Services and corresponding revenues as per BIAL's Concession Agreement BIAL notes that the Authority has considered Cargo, Ground handling and supply of Fuel ("CGF") as aeronautical services without considering the provisions of the AERA Act, and especially Sections 13(1)(a)(vi) and (vii). Section 13(1)(a)(vi) provides that the Authority shall take into account concessions offered by the State in an agreement or otherwise. In this context, the Concession Agreement dated 05.07.2004 executed by the President of India through the Ministry of Civil Aviation ('Ministry') provides specific concessions to BIAL that only certain services, which are included within the ambit of 'regulated charges', will be regulated and in respect of all other activities, BIAL shall remain free without any restrictions to undertake the same.

To elaborate, Schedule 6 of BIAL's Concession Agreement ('CA') contains a list of 'Regulated Charges' and clause 10.3 of the CA states that "BIAL and/or Service Provider Right Holders shall be free without any restriction to determine the charges to be imposed in respect of the facilities and services provided at the Airport or on the Site, other than the facilities and services in respect of which Regulated Charges are levied." In other words, the CA states that except for regulated charges, BIAL shall be free without any restriction to undertake all other activities.

The powers of the Authority defined under Section 13(a) of the AERA Act states that the Authority must determine tariffs considering concessions offered by the Central Government. An extract of the abovementioned provision has been quoted below:

"to determine the tariff for the aeronautical services taking into consideration— ...

... (vi) The concession offered by the Central Government in any agreement or memorandum of understanding or otherwise;"

The sanctity of Concession Agreements has also been upheld in the recent TDSAT Order dated 23.04.2018. Para 31 of this Order states that the concessions offered under the two agreements OMDA and SSA deserve consideration by the Authority in a judicious, fair and transparent manner. An extract of Para 31 of the TDSAT Order is as reproduced below:

"In exercise of this power, AERA is required to respect rights/concessions flowing from lawful agreements / instruments / directives of Central Government on policy matters."

Further, Para 36 of the TDSAT Order makes it binding on the Authority to take into consideration the various concessions given to the airport operator. The order says "Since a contractual right/claim has the backing of law, it deserves clear respect." In line with the judgment of the Hon'ble TDSAT, the CA and the specific concession granted in Article 10.3 in favour of BIAL has to be reckoned by the Authority under section 13(1)(a)(vi). The concession demands that CGF services be kept outside the ambit of regulation. Section 2 begins with a phrase "unless the context otherwise requires"- the context in this case inter alia refers to the concession granted to BIAL under the CA. Any other interpretation would lead to a situation where the freedom to determine *charges as per Clause 10.3 of the CA is undermined if activities other than those mentioned in Schedule VI are regulated. Under the CA, BIAL is entitled to carry on CGF and also ICT and CIC activities without regulation. Accordingly, considering CGF, ICT and CIC services and their corresponding revenues as aeronautical would amount to them being treated as "Regulated Charges". Therefore, regulation or tariff determination in respect of such services or reckoning the services as aeronautical is directly contrary to the concessions granted under the CA.*

Further, there is no cross-subsidy envisaged in Article 10.3 of the CA, which envisages a dual till. BIAL has agreed for a 30% Shared Revenue Till ('SRT') as a workable solution. In the given circumstance, shifting a charge appearing under "other" charges to a "regulated" charge would be a subsequent setback for BIAL. Hence, treatment of CGF, ICT and CIC services as aeronautical by the Authority would be in violation of the CA. While BIAL's position is that tariff in respect of the said services should not be determined at all, at the very least, in order to bring about level playing field, since the Hon'ble TDSAT has, in the case of DIAL, held that revenue from Cargo, Fuel Farm and Ground Handling Services would be required to be treated as non-aeronautical revenue, the same position ought to be applied for BIAL as well. BIAL, therefore, states that section 13(1)(a)(vi) be given effect to by keeping CGF services outside the ambit of regulation without prejudice, and in any event parity and level playing field demand that revenues from the said services like in the case of Mumbai International Airport Limited ('MIAL') and DIAL be treated as revenue from non-aeronautical services.

A review of the Airports Infrastructure Policy, 1997, the 2003 amendments to the Airports Authority of India Act, 1994 which are also to be considered as concessions within the meaning of Section 13(1) (a)(vi) and (vii) assure necessary freedom to entrepreneurs to run the airport/s as a private airport/s with minimal regulation. The CA was executed in this backdrop and when all the circumstances are seen together, there is one inevitable conclusion that the concessions offered to BIAL should be enforced by the Authority, so that the tariff determination exercise complies with Section 13(1)(a)(vi) and (vii).

We also note that the Authority, while considering CGF services as aeronautical, referred to a letter issued by the Ministry to the Authority dated 24.09.2013 in respect of Consultation Paper No. 14/2013-14 for tariff determination for the First Control Period of BIAL. An extract of this letter is given below:

"... The revenues from cargo, ground handling services and fuel supply which are defined as Aeronautical Services in the AERA Act, 2008 may be reckoned as Aeronautical Revenues and considered accordingly irrespective of the providers of such Aeronautical Services...."

BIAL submits that the letter issued by the Ministry refers to the AERA Act while taking such a position. However, the letter issued by the Ministry does not consider Section 13(1)(a)(vi). The letter issued by the Ministry cannot be construed in a manner so as to render a statutory provision nugatory. Additionally, the letter of the Ministry does not consider the import of the phrase "unless *the context otherwise requires". The Ministry also does not consider the concession granted to BIAL under the CA. The Ministry letter does not indicate how the concessions granted ought to be factored in the tariff determination exercise. Therefore, the Ministry's letter cannot be considered while considering the issue of treatment of CGF services. In any event, subsequently, the Ministry has taken a specific position in the case of MIAL and DIAL that the OMDA and SSA ought to be respected. It is the Ministry's view, which has been upheld by the Hon'ble TDSAT, wherein it has unambiguously held that the concessions must be respected unless there is an irrevocable conflict. It is, therefore, the test of "irreconcilable conflict" that has to be applied while construing the concession granted to BIAL in respect of CGF services. By applying this test as stated above, the services should not be regulated at all. Therefore, in view of the subsequent stance adopted by the Ministry with regard to the concessions granted and in view of the subsequent judgement of the Hon'ble TDSAT, CGF services ought to be considered as non-aeronautical services.*

In addition, BIAL has sought an opinion from Justice Sirpurkar, on the issue of treatment of CGF services. The rationale provided by Justice Sirpurkar corroborates the fact that CGF services should be treated as non-aeronautical services based on harmonious reading of the CA with the AERA Act. An extract from the submission has been reproduced below, "Following the ratio in the decision of the Hon'ble TDSAT that agreements and concessions granted are to be respected, and especially considering that Section 2 of the AERA Act commences with the phrase 'unless the context otherwise requires', CGF services should be kept outside the purview of regulation. In the alternative, Section 2, Section 13 and the Concession Agreement can be harmoniously read by treating revenue from CGF services as non-aeronautical revenue in the hands of the Querist."

Further, Justice Sirpurkar also noted that the AERA Act provides flexibility in its definition of aeronautical service based on the context of the individual airport. An extract from his opinion has been reproduced below:

"In expressing this opinion, I lay stress on the opening clause in Section 2 of the AERA Act to the following effect "unless the context otherwise requires". Hence, in the present case, that context has to be construed as the previous Concession Agreement."

Based on the above rationale, learned Justice Sirpurkar has opined that CGF services would be required to be treated as non-aeronautical in the case of BIAL similar to what was done in the case of DIAL. An extract in this regard is given below:

"I am therefore of the opinion that as held in the case of DIAL by the Hon'ble TDSAT, revenue from Cargo, Fuel Farm and Ground Handling Services would be required to be treated as nonaeronautical revenue."

BIAL Submission

Based on the above, BIAL requests the Authority to consider activities pertaining to provision of CGF, CIC and ICT services as non-aeronautical services and correspondingly, any revenues from such activities as non-aeronautical revenues.

Treatment of lease rentals from aeronautical service providers

BIAL would request the Authority to consider the nature of revenue and the end use of the space before determining whether the service is aeronautical or non-aeronautical in nature and consider any rentals from spaces like airline back offices / ticketing counters / training centres etc. as nonaeronautical revenues. For example airline offices for administration, training etc. at the terminal / airport, are not necessarily required in the vicinity of the airport for the airline to function and provide aeronautical services. Airlines have also started placing their ticketing offices in the city besides having one in the terminal building of airports. Provisioning of space for such offices within the airport / terminal would not change the nature of activity, which is similar to commercial real estate. The end purpose of such a venture is not to provide an aeronautical service but to generate non-aeronautical revenues such as lease rentals from various commercial entities such as hotels, car rentals etc. apart from airlines. Hence, lease rentals from commercial spaces should not be considered as aeronautical revenue in the hands of the airport.

Treatment of lease rentals from aeronautical service providers as per AERA & International Civil Aviation Organization ('ICAO')

The Authority vide its CP included airline offices within non-aeronautical services. An extract of Para 2.4.1 of the CP has been presented below:

"2.4.1 ... As an illustrative list, the non-aeronautical services and activities would include duty free shopping, food and beverages, retail outlets, public admission fee for entry into the terminal, hotel, if any provided inside the terminal building, banks, ATMs, airlines offices, commercial lounges, spa, car parking, etc. The Authority is aware that this is not an exhaustive list. In addition to the above, individual airport operator may innovate and add more non-aeronautical services so as to improve the passenger conveniences or enhancing ambience of the airport and terminal building."

Further, the Airports Economic Regulatory Authority of India (Terms and Conditions for Determination of Tariff for Airport Operators) Guidelines, 2011 ('Airport Guidelines') issued by the Authority acknowledge that airline offices come within the ambit of "Commercial office areas" which as per Form F3 of the above Guidelines are treated as "Revenue Generating Areas" alongside retail, advertisement, ticketing, duty free shops and car parking. An extract from the Airport Guidelines is presented below:

"A5.4.1.7. Existing floor area III square meters of passenger terminal buildings broken down into revenue generating areas for example:

(a) Retail areas

(b) Commercial office areas (airlines, other airport Users)

(c) Advertisement areas

(d) Ticketing areas

(e) Duty free areas

(f) Car Parking Facilities

(g) Air Cargo Facilities"

Also, ICAO's Airport Economics Manual (Doc 9562), provides a list of "Revenues from nonaeronautical activities". It is pertinent to note that para 4.23 of the Manual containing this list of non-aeronautical activities includes rentals payable by aircraft operators for airport-owned premises and facilities (e.g. check-in counters, sales counters and administrative offices) other than those already covered under "air traffic operations". Further, the Manual explicitly defines Revenues from non-aeronautical sources to include commercial arrangements even though they may apply to activities that may themselves be considered to be of an aeronautical character. The definition from the Manual has been provided below:

"Revenues from non-aeronautical sources. Any revenues received by an airport in consideration for the various commercial arrangements it makes in relation to the granting of concessions, the rental or leasing of premises and land, and free-zone operations, even though such arrangements may in fact apply to activities that may themselves be considered to be of an aeronautical character (for example, concessions granted to oil companies to supply aviation fuel and lubricants and the rental of terminal building space or premises to aircraft operators). Also intended to be included are the gross revenues, less any sales tax or other taxes, earned by shops or services operated by the airport itself."

Based on the above extracts from the Airport Guidelines, CP and ICAO's Airport Economics Manual, there appears to be no reason for considering lease rentals from airlines / concessionaires providing aeronautical services as aeronautical revenues. Lease rentals by virtue of their nature are non-aeronautical, and the Authority has treated them as non-aeronautical in case of Second Control Period for DIAL, MIAL and also in the Authority's recent Consultation Paper No. 30/2017-18 for the Second Control Period of Hyderabad International Airport Limited ('HIAL'). In the circumstance, there is no reason for a deviation from the above treatment in the case of BIAL.

Further, BIAL submits to the Authority that the capital costs incurred towards construction of spaces given out on lease have been considered as non-aeronautical assets as per the asset allocation methodology adopted by BIAL. Considering the above as aeronautical revenue but the corresponding asset base as non-aeronautical would be inconsistent.

BIAL's Submission

BIAL would submit to the Authority to consider lease rentals as non-aeronautical revenues despite them being collected from aeronautical service providers.

Authority's proposal to consider revenues from Property development activities as Non-Aeronautical.

Treatment of Property Development as a non-aeronautical activity

No Power to regulate Non-Airport Activity

The Authority has been constituted to regulate aeronautical services. The preamble to the AERA Act 2008 states, "An Act to provide for the establishment of and Airport economic Regulatory Authority to regulate tariff and other charges for the Aeronautical service rendered at the airport.........."

Section 13 provides that tariff determination is a function of the Authority. For this function, the Authority has been conferred with powers, inter alia, under section 14 of the Act. The Authority, therefore, has limited jurisdiction and it is impermissible for the Authority to directly or indirectly regulate, reckon or consider non-airport activities.

Section 13(1)(a)(v) requires the Authority to consider revenue received from services other than aeronautical services. Section 13(1)(a)(v) is however conditioned by Section 13(1)(a)(vii) and the proviso to the 13(1)(a). The services are to be provided as per section 13(1)(a) by major airports. Non-airport activity such as real estate development activity cannot be rightly said to be a service provided by the airport. The word 'Airport' is defined under the AERA Act under section 2(b) and the definition is a restrictive one.

'Airport' means a landing and taking off area for aircrafts, usually with runways and aircraft maintenance and passenger facilities and includes an aerodrome as defined in clause (2) of section 2 of the Aircraft Act, 1934 (22 of 1934)

The word "means" denotes the limited scope of the definition. Non-airport activities going by the classification provided under the Act do not fall within the definition of 'Airport' under section 2(b) and, therefore, cannot be construed as services provided by a major airport. Accordingly, section 13(1)(a)(v) does not and cannot permit reckoning revenue whether in part or in full, from nonairport activities or activities that do not fall within the definition of "airport" under section 2(b) of the Act.

Provisions of Land Lease Deed ('LLD') and CA

Without prejudice to the above, Clause 4.1 of the LLD permits BIAL to undertake both airport and non-airport activities without seeking prior permission. It states that,

"KSIIDC hereby grants permission and consent, to BIAL to use the Site, and BIAL agrees to use the Site in accordance with the Master plan, for the carrying of the Activities....."

As per Schedule 3 Part B of BIAL's CA, commercial property development including hotels, SEZs, business parks, commercial buildings, and commercial complexes have clearly been defined as a non-airport activity. An extract from the CA signed for KIAB is as reproduced below:

"Part 2 - Non-Airport Activities:

Non-Airport Activities include the following services, facilities and equipment: Airport Shuttle transport services (Hotels, City Centre etc.) Business Parks Hi-Tech Parks Hotels Industrial Parks Commercial Buildings Special Economic Zones Commercial Complexes Golf Course Country Club Food Silos Independent Power Producing Production centres like manufacturing factories."

The above non-airport activities also forms part of the CA and are set out in Schedule 3, Part 2. Thus, there is no prior permission /approval required to carry out the non-airport Activities. As per

Clause 4.2 of LLD, BIAL can undertake activities other than those mentioned in Clause 4.1 with the prior permission/approval of KSIIDC.

Further, the LLD provides that the "CA excluded area" means that portion of the site containing those Non-Airport Activities not being taken over by the Government of India ('GoI') pursuant to Articles 7.2 or 13.5.2 of the Concession Agreement". The "CA excluded area" would not need to be transferred to along with the other assets of BIAL in case the airport is transferred to GoI. The relevant extract from Clause 3.5 of the LLD corroborating the above is reproduced below:

"3.5 In the event that the Airport is transferred to GoI in accordance with the provisions of Article 13.5 of the Concession Agreement, then upon such transfer, BIAL shall be deemed to have surrendered the Site (with the exception of the CA Excluded Area) and this Deed shall terminate with respect to the surrendered part and KSIIDC shall be at full liberty to deal therewith in the manner it chooses. With regard to the CA Excluded Area, KSIIDC and BIAL will meet to settle the commercial terms for the continuance of the lease in respect of the CA Excluded Area and KSIIDC shall ensure that BIAL has the fights of access necessary for access to the CA Excluded Area."

A definition similar to "CA excluded area" is provided in the LLD for the term "SSA excluded area". An extract from the LLD confirming that "SSA excluded area" would remain with BIAL in the event the airport is transferred to Government of Karnataka ('GoK') is given below:

"3.4 In the event that the Airport is transferred to GoK in accordance with the provisions of Clause 19.4 of the State Support Agreement then upon such transfer, BIAL shall be deemed to have surrendered the Site (with the exception of the SSA Excluded Area) and this Deed shall terminate with respect to the surrendered part and KSIIDC shall be at full liberty to deal therewith in the manner it chooses. With regard to the SSA Excluded Area, KSIIDC and BIAL will meet to settle the commercial terms for the continuance of the lease in respect of the SSA Excluded Area and shall ensure that BIAL has the rights of access necessary for access to the SSA Excluded Area."

Based on the above extracts, it is clear that as per the framework of BIAL's CA and other project agreements, the non-airport activities are allowed to be continued beyond the period where the airport is under concession to BIAL.

Further, the TDSAT Order has upheld the sanctity of Concession Agreements stating "In exercise of this power, AERA is required to respect rights/concessions flowing from lawful agreements / instruments / directives of Central Government on policy matters."

Inconsistency of the Authority's treatment

Further, we would like to highlight that Commercial Development has been kept outside the 30% SRT in the case of private airports including MIAL and DIAL. Accordingly, the Authority's position is not consistent with the Airport Guidelines, AERA Act, and tariff determination of other private airports as mentioned above. This inconsistency in the Authority's treatment is despite the fact that there has been no formal consultation process where the Authority has discussed such a treatment with other airport stakeholders.

BIAL's Submission

BIAL requests the Authority to consider the relevant provisions of AERA Act, BIAL's CA, LLD and TDSAT Order and consider property development as non-airport activity. Accordingly, the Authority is requested to not consider any revenue from such activities towards determination of aeronautical tariffs.

4.5 Authority's examination of Stakeholders' comments on Regulatory Principles

Consideration of Cargo, Ground Handling and Fuel Farm as Aeronautical Service

4.5.1 The Authority has carefully reviewed the submissions made by BIAL and other Stakeholders supporting the view that the Cargo, Ground Handling and Fuel Farm services (along with ICT services) should be treated as "Non-Aeronautical" services.

4.5.2 The Authority notes that these are based on following grounds put forth by BIAL and certain stakeholders. These are:

4.5.2.1 Concession Agreement of BIAL indicates that these services are "Non-Aeronautical" and the terms of the Concession Agreement should be respected.

4.5.2.2 These services are considered as "Non-Aeronautical" in case of Delhi and Mumbai airports and TDSAT Order should be considered and applied similarly for BIAL.

4.5.3 The Authority also notes that in case of BIAL, the manner of treatment of CGF revenues is sub-judice and pending before TDSAT.

4.5.4 Authority has evaluated these factors and provided its detailed analysis in order for the First Control period. Authority's analysis is as detailed below.

4.5.5 The Authority noted that BIAL and APAO have stated that the CGF services are not defined as Aeronautical Services in the Concession Agreement. The Authority notes that AERA Act defines CGF Services as clearly Aeronautical services. The Authority notes that CGF is included as part of Airport Activity, which could either be termed as Aeronautical or Non-Aeronautical and the Concession Agreement provided for IRA to be formed to regulate any aspect of Airport Activity. Hence the Authority considers it well within the Authority's purview to consider the CGF services as Aeronautical Services and to consider the revenue earned by the Airport Operator, whether by directly rendering the service or through Third Party concessionaires either as a revenue share or in any other form, be treated as Aeronautical Revenues.

4.5.6 The Authority had also received letter dated 24th September 2013 from MoCA on the same issue as part of response to Consultation Paper issued by the Authority for BIAL the first control period. Extract of the same is reproduced below:

"4. Furthermore, in view of the various provision of AERA Act, 2008 with respect to the Aeronautical Services, the Fuel Throughput Charge that is levied by Airport Operator may be considered as Aeronautical revenue in the hands of the Airport Operator. The revenues from cargo, ground handling services and fuel supply which are defined as Aeronautical Services in the AERA Act, 2008

may be reckoned as Aeronautical Revenues and considered accordingly irrespective of the providers of such Aeronautical Services."

4.5.7 The Authority notes that CGF services are not explicitly stated as "Non-Aeronautical Activities" in the Concession agreement much as it does not specifically state these as "Aeronautical Activities". Activities can be considered as Aeronautical and Non-Aeronautical. As far as CGF is concerned, the Authority noted that these were expressly included in Part I of Schedule 3 which gives out a list of "Airport Activities". The concession agreement also explicitly refers to the IRA that is set up to regulate "any aspect of airport activities". In absence of clarity, the Authority has, based on its philosophy, considered these as Aeronautical services.

4.5.8 As per "Words and phrases legally defined" (4th Edition, Lexis Nexis) "any" is "a word with very wide meaning and prima-facie the use of it excludes limitation". It further states that "any" is a "word which ordinarily excludes limitation or qualification, and which should be given as wide a construction as possible". Further "Supreme Courts words and phrases by Surendra Malik and Sumeet Malik" states that "any" has the following meaning "some; one of many; an indefinite number". Determination of charges for items included in "Airport Activities" would thus fall under "any aspect" of the said Airport Activities, with wide interpretation of the word "any". Hence, determination of charges for "Airport Activities" is embodied within the framework of the Concession Agreement itself.

4.5.9 The Authority also noted that under Section 2(a)(vii), Aeronautical Service means "any service provided for a stakeholder at an airport for which the charges, in the opinion of the Central Government for the reasons to be recorded in writing may be determined by the Authority". The Act also defined Stakeholder in section 2(o) of the Act. Hence, if the Central Government were to expand the scope of remit of the Authority to include some item that is included in Part I Schedule 3 – Airport Activities of the Concession Agreement, as an Aeronautical Service, the Authority would be required to also regulate such a service (including if relevant, determining its charges). This scheme of things is also contemplated within the framework of the Concession Agreement itself.

4.5.10 The Authority has been established under AERA Act by the Parliament. The Act also specifies CGF as Aeronautical Services and these are expressly listed as Airport Activities in the Concession Agreement.

4.5.11 The Authority notes that BIAL has drawn reference to TDSAT Order on DIAL and has submitted to the Authority to consider the same stand for BIAL also and consider the CGF Services as "Non-Aeronautical".

4.5.12 The Authority is of the view that any comparison of BIAL with DIAL and MIAL may not be appropriate as there are many differences between the Concession Agreements and tariff determination philosophy between these Airports. The main difference is that in the case of DIAL and MIAL, there is a fairly clear listing and division of all services as either Aeronautical or Non-Aeronautical and clear provision for Hybrid Till with the implication that a concession is being consciously given in respect of these two airports with reference to Cargo and Ground Handling Services being classified as Non-Aeronautical services.

4.5.13 BIAL has also relied on the reference to "unregulated charges" mentioned in the Concession Agreement of BIAL and HIAL and an inference is sought to be made that since the charges from CGF are mentioned as unregulated, they should be treated as non-aeronautical. The AERA Act came in later and the entire concept relating to classification of services changed. The Act defines only Aeronautical services and lists them out in Section 2(a) and does not make a mention of Aeronautical assets or charges. It therefore becomes essential to first decide whether a particular service is Aeronautical or not and then to classify whether the assets, costs, charges and revenues relating to that service are Aeronautical or not. Besides, according to the Authority, there is no intention in the Concession Agreement to provide it as a concession since there was no mention of the Till to be adopted for Tariff determination.

4.5.14 It should also be noted that provisions of an agreement signed after BIAL's Concession Agreement such as the agreement with DIAL and MIAL cannot be imported into the Concession Agreement of BIAL. The Authority is of the view that BIAL could at best be compared with HIAL where similar treatment has been considered.

4.5.15 The Authority also notes that where binding agreements define the CGF services to be Aeronautical, the same have been considered by the Authority accordingly as was done in the case of DIAL/ MIAL where Cargo and Ground Handling was considered as Non-Aeronautical service in line with the agreement whereas Fuel Farm was considered as Aeronautical in line with the Authority's philosophy as it was neither stated as "Aeronautical" or "Non-Aeronautical" in the OMDA/ State Support Agreement. This view has also been upheld by the Hon'ble Appellate Tribunal.

4.5.16 Considering the above, the Authority decides to treat the revenues from CGF and ICT services as Aeronautical Revenues and consider accordingly in computation of Aggregate Revenue Requirement.

Consideration of Lease Rentals from Aero Concessionaires as Aeronautical Income

4.5.17 The Authority has carefully reviewed the submissions made by BIAL and other stakeholders on Lease rentals from Aero Concessionaires.

4.5.18 The Authority notes that the submissions made indicate that Lease Rentals are in the nature of land development activities and are not defined as "Aeronautical Service". The Authority also notes that BIAL and other stakeholders have stated that ICAO principles and the forms issued as part of Authority Guidelines indicate "Airport Offices" as part of Non-Aeronautical Services.

4.5.19 The Authority notes that the Aeronautical agencies – viz Airlines, AAI and other Aeronautical Service Providers would need space to operate in the Airport Premises and activities carried out by them is integral to the Airport Operations. The Authority notes that any revenues earned from the service providers/ entities providing Aeronautical services should be treated akin to Aeronautical Revenues and should be taken for cross subsidisation.

4.5.20 The Authority is of the view that services provided by BIAL are in the nature of enabling activities towards Aeronautical services provided. The Authority has taken this view consistently and treated these revenues in a uniform manner in all recent tariff determinations. The Authority also notes that in computation of tariff for CGF operators, such expenses paid to Airport Operator are being considered as part of Aeronautical costs.

4.5.21 BIAL had also informed that in certain cases, the lease of space is provided to the same entities more for convenience of a single location for example corporate offices/ training centers of the Airlines etc. The Authority notes that these are not part of the core-Aviation/ aeronautical services and hence need not be considered as part of collections akin to Aeronautical services.

4.5.22 The Authority accordingly decides to consider lease rentals received from Aeronautical Service providers for space relating to operations that are integral to the core aviation services to be treated as Aeronautical Revenues and other lease rentals as Non-Aeronautical Revenue and compute the ARR accordingly.

Consideration of Treatment of Revenues from Land development

4.5.23 The Authority has carefully reviewed the submissions made by BIAL and other stakeholders on treatment of revenues from land development activities.

4.5.24 The Authority notes BIAL and other stakeholders' submissions that additional lands were given to attract and incentivise the potential investors who participated in the bidding for development of the Airports. According to them, cross subsidisation of the Real Estate activities is a dilution of the commitments provided in the Concession Agreement.

4.5.25 The Authority had detailed its analysis on manner of considering the Land Development activities in its Order for the First Control Period.

4.5.26 While the Authority noted that the agreements referred to by BIAL have permitted the Operator to use the land for the stated purposes which may not be considered as "Airport Activities" it may not be correct for BIAL to benefit from the land being given mainly for the purpose of running an airport and to improve the viability of the Airport Project.

4.5.27 The Authority noted the Recital F of the Land Lease Deed as well as Clause 4.2 thereof whereby the purpose of land was to "improve the viability of the Project and enhance the bankability of the Initial Phase". In this the words "incentivize" as mentioned in BIAL's submission, did not however appear in the Land Lease Deed in the context of commercial utilisation of the land.

4.5.28 The Authority noted that BIAL has agreed to use the site in accordance with the Master Plan and for carrying out of the activities which can be seen to be airport related. The Clause 4.2 of the lease deed gives the liberty to BIAL, with the approval of KSIIDC, to utilize the site for any other purposes that are also indicated in the Land Lease Deed Agreement. All these activities appear to be broadly in the nature of airport activities with the possible exception of item 4.2 (iv), namely, "improves the commercial viability of the Project" and/or 4.2 (v) facilitates substantive further investment in or around the Airport." The combined reading of all these clauses appear to the Authority to indicate that the primary purpose of lease of land to BIAL was to provide financial support and to improve the viability of the Project and enhance the bankability of the initial phase. Clause (iv) specifically states that the purpose had to be to improve the commercial viability of the Project. Clause 4.2(v), on which BIAL has relied also states that the purpose of land utilisation should be to "facilitates substantive further investment in or around the Airport". The "other purpose" for which BIAL can utilise the land (with the previous approval of KSIIDC), will "facilitate" substantive further investment by BIAL itself, or what is more likely (noting the use of the word "facilitate"), by third parties. Such third parties would conceivably give to BIAL compensation for use of the land for the other purpose (the purpose that will have to be approved by KSIIDC). In any event, the purpose of land grant to BIAL is clearly specified in the land lease agreement and was not to give the land to BIAL without any restrictions or to be used in any manner that BIAL in its discretion may deem fit and further appropriate the proceeds to itself, without requiring it to have nexus to improve viability and bankability of the airport project.

4.5.29 The Authority is of the view that the grant of land by KSIIDC to BIAL after acquiring the same (which would be in public interest) and at a rental of 3% to 6% per annum (which may be a concessional rate so that the public utility of Airport is facilitated) can be bereft of any linkage with the Airport project. Use of the land as indicated in Clause 4.1 of the Land Lease Agreement clearly is with respect to Airport activities. The commercial utilisation of land is provided in Clause 4.2 and is subject to approval of KSIIDC and also underlines the aspect of improvement of commercial viability of the Airport and / or facilitating substantive further investment in or around the Airport.

4.5.30 The Authority had thus considered the land lease agreement from which it inferred that the land has been leased to BIAL "to provide financial support to improve the viability of the Project and enhance the bankability of the Initial Phase."

4.5.31 The land is given for the Project that is defined as "designing, financing, construction, completion, commissioning, maintenance, operation, management and development of the Airport", both in the Concession Agreement as well as the Land Lease Deed. The provisions of the use of the Site (Clause 4) of the Land Lease Deed also have express mention of the use of land for, inter alia, "conducive or incidental to implementation of the Project" as well as for "improving the commercial viability of the Project". It is thus clear that both the Concession Agreement and the Land Lease Deed expressly link the grant of land to, inter alia, financing the Project. Even otherwise, convenient interpretation that the GoK would on one hand give financial support to improve the viability of the Project and on the other hand, permit the land acquired by the GoK through the legislative instrument of "Land acquisition Act" from private parties to be commercially exploited by BIAL merely as an "incentive" to develop and manage the Airport (without requiring the funds generated from such commercial exploitation for the purposes of Capital or for that matter revenue requirements for the Airport) appeared to the Authority as not tenable. The Authority noted however that instead of giving such a proposal of raising Capital through commercial exploitation of land, BIAL appeared to interpret the provisions of the different agreements that there is no such linkage between grant of land and the financing, improving the commercial viability etc. of the Airport. It thus appears to have taken out only "financing" as well as "improving the commercial viability of the project" from the list of purposes for which the site has been leased to it by KSIIDC. The Authority did not find this line of reasoning tenable.

4.5.32 The Authority under Section 13(1) (a) (i) of the AERA Act is required to determine the tariff for Aeronautical services taking into consideration "the capital expenditure incurred and timely investment in improvement of airport facilities" and under sub-clause (iv) economic and viable operations of BIAL. It therefore appears to the Authority that any revenues obtained from commercial exploitation of land in excess of the Airport requirements are required to be ploughed back into the Airport project. This, in view of the Authority, would establish the nexus between the purpose of grant of land (to improve the project viability) and lowering the charges on the passengers. The Authority, in any case, is mandated to determine tariffs for Aeronautical services (including amount of User Development Fees) taking into consideration the economic and viable operation of the major airports. Hence, after determining such Aeronautical tariffs (as well as UDF), the Airport's viability would be ensured in terms of financial returns. Any amount obtained through commercial exploitation of land would then be over and above what is required for such economic viability or feasibility.

4.5.33 The Authority did not consider it to be the objective of grant of excess land to the airport operator that it can get additional revenue over and above what is considered and determined as a fair rate of return. The land of around 4008 acres (Schedule 2 of the Concession Agreement) had been acquired by the State Govt. under the relevant provisions of Land Acquisition Act (and leased to the airport). The Authority noted that the rent for land is taken at 3% (to be increased to 6% of the cost from the eighth year) based on Rs. 175 crores which the Authority understands may be the acquisition cost under the Land Acquisition Act. The Authority thus understood that the rental does not make distinction between different uses permitted on this land, namely, the airport activities and the other commercial activities (clause 4.2(v)). The Authority understood that land for commercial purposes is generally based on certain well-defined principles of disposal including that of auction and, at any rate, attracts a higher lease rental. Hence any receipts from the commercial exploitation of land outside the terminal building should also go to reduce the incidence of passenger charges namely UDF.

4.5.34 The Authority also notes comments received from GoK as one of the stakeholders for the Consultation Paper issued for determination of Aeronautical Tariffs for the first control period as below:

"...The Kempegowda International Airport at Bangalore is one of the fastest growing airports in the country. It is also envisioned to develop this airport as a hub for Southern Region and South East Asia. This calls for expansion of facilities at the airport from time to time in line with the traffic growth and master plan. Keeping this in mind, GOK has provided around 4008 acres of land to BIAL on lease basis to cater to the ultimate capacity of about 50 million passengers with the configuration of, two parallel simultaneously operable runways and the corresponding airside and landside facilities. It may be clarified that no land has been provided exclusively or specifically for commercial or non-airport activities. However, as per the master plan approved by BIAL Board, about 720 acres is available for such activities. As mentioned in the earlier letter dated 26th August 2013, the guiding principles for utilisation of land are contained in the Land Lease Deed, Concession Agreement and State Support Agreement.

With reference to the DO letter dated 24th October 2013 of AERA referred at (5) above, we have no issue with the stand taken by the Authority that whatever revenue BIAL may generate from the commercial exploitation of the "excess" land should be entirely ploughed back into the Airport Project. This is in consonance with our views (please refer our letter dated 26th August 2013) wherein we have stated that the passengers' interest is paramount. We feel that our passengers should enjoy world class facilities...."

4.5.35 The Authority's regulatory framework provides for fair rate of return to be given to the Airport Operator. The Authority understands that it cannot be the intent of GoK to acquire land in excess of the Airport requirement without a specific link to ensure that the returns from the same are used to reduce the burden on the passengers.

4.5.36 Accordingly, the Authority considers that the revenues earned from such lands provided as part of Land lease agreement with clearly stated objectives should be considered in an appropriate manner for cross subsidising the Aeronautical Tariffs. Hence, the Authority had proposed to consider the revenues from Real Estate as akin to "Non-Aeronautical Revenues".

4.5.37 To summarise, on Land monetisation, the Authority decides to consider any return / income received from such Land monetisation activities as revenues from which 30% will be cross subsidised for computing ARR and the resultant Aeronautical charges.

4.5.38 The Authority notes comments made by IATA on Regulatory Till. The grounds for adopting 30% Hybrid Till for the Second Control period has already been elaborated by the Authority in its Order No. 14/ 2016-17.

Decision No. 1. Regarding Regulatory Till and principles for Tariff determination

1.a. Based on the material before it and its analysis, the Authority decides:

i. To compute ARR under 30% Hybrid Till for the second control period.

ii. **To consider revenues from Cargo, Ground Handling and Fuel Farm services and Rentals from leasing of space to agencies for providing core Aeronautical services as Aeronautical revenues.**

iii. **To consider revenues from Property development activities akin to Non-Aeronautical activity and consider 30% of such revenues towards cross subsidisation of Airport charges.**

5 Review of Pre-Control Period

5.1 BIAL's submission relating to Pre-control period shortfall

5.1.1 BIAL had, in its MYTP submissions for the second control period stated that it has a carried forward loss of Rs. 53.28 crores prior to the Airport Opening date and that the Airport had incurred losses to the tune of Rs. 97.03 crores in the year 2008-09 and the accumulated losses upto 2008-09 was Rs. 150.31 crores. BIAL had submitted as follows:

"...

BIAL had a carried forward loss of Rs. 53.28 crore as of pre-AoD. Post approval for levy of UDF on ad-hoc basis from AoD, Operations resulted in a loss of Rs. 97.03 crore during the first year of its operation (i.e., FY:2008-09) and the accumulated loss aggregated to Rs. 150.31 Crore as up to 2008-09 (as per the audited accounts). BIAL had ensured high quality in performance standards and is expanding the infrastructural facilities to meet the increasing demand of both passengers and airlines.

...

Given that BIAL had incurred the losses prior to the commencement of Airport operations, these losses should have been recovered during the subsequent years of operation of the Airport. These losses and shortfalls when compounded till the start of Control Period 1 stood at Rs. 760.2 crore and at start of Control Period 2 stands at Rs. 1,609.8 crore. In an effort to maintain the vigour to enhance the services and aiming to build better infrastructure, BIAL requests the Authority to factor the losses incurred prior to the setting up of the authority."

5.1.2 The details of computation of pre-control period losses and shortfall submitted by BIAL is as below:

Table 3: Pre-control period shortfall as submitted by BIAL (Rs. In Crores)

Particulars	FY 2009	FY 2010	FY2011	Total
Actual Shared Till revenues from Aviation	178.70	301.20	343.00	822.80
Eligible as per SRT 30%	476.10	485.40	453.80	
(Under) / Over Recovery	-297.40	-184.20	-110.80	
WACC	16%	16%	16%	
Annual factor	1.20	1.20	1.00	
Years to beginning of Control Period 1	3.00	2.00	1.00	
Compounding factor to beginning of Control Period 1	1.30	1.40	1.00	
(Under) / Over Recovery till beginning of Control Period 1	-400.10	-249.40	-110.80	-760.20
(Under) / Over Recovery till beginning of Control Period 2				-1,375.80
(Under)/ Over Recovery till beginning of FY 2017				-1,611.00

5.1.3 ARR Computation as submitted by BIAL for the above shortfall was as follows:

Table 4: Detailed computation of ARR for Pre-control period as submitted by BIAL (Rs. In Crores)

Particulars	FY 2009	FY 2010	FY2011
Average RAB for calculating ARR	1,668.17	1,616.00	1,505.58
Fair Rate of Return	15.98%	16.34%	15.94%
Return on Assets	227.92	264.13	240.06
WC Interest etc.	0.00	1.18	0.73
Depreciation	104.73	123.58	123.80
Opex	176.45	137.03	141.39
Estimated IT reimbursement	0.86	0.00	0.00
Total Gross ARR	509.96	525.92	505.97
Less: Deductions for Non-Aero. Revenues	-41.03	-52.57	-65.92
Add: Concession Fee	7.15	12.05	13.72
Net ARR	476.08	485.40	453.77

5.1.4 BIAL had included the claim of Pre-control period shortfall along with carrying cost in the computation of ARR for the second control period.

5.2 Authority's analysis of Pre-control period shortfall detailed in Consultation Paper

5.2.1 Authority's analysis of Pre-Control period is elaborated in the Consultation Paper.

5.2.2 In MYTO-CP1, the Authority had detailed that as the Authority's jurisdiction begins only from the period September 2009 when the Authority was formed, the Authority did not propose to consider any losses prior to its formation.

5.2.3 In MYTO-CP1, the Authority also noted that MoCA had not provided any directive to the Authority to carry out an analysis of the adhoc tariff that had been determined by MoCA. Hence, as elaborated in CP 22/ 2013-14, the Authority decided not to reckon, in the tariff determination for first control period, any period before the Authority's powers were notified effective September 2009.

5.2.4 Accordingly, the Authority had evaluated the losses that may have been incurred by BIAL during the period 1st September 2009 to 31st March 2011. The books of accounts of BIAL indicated that for both the years 2009-10 as well as 2010-11, BIAL did not post any loss in its Profit and Loss statements. The Authority therefore decided that there would be no occasion to reckon any loss to be added to the ARR for the current control period for determining tariffs for Aeronautical services as well as UDF in case of BIAL.

5.2.5 Accordingly, Authority's decision in MYTO-CP1, in Decision 2(a) was as follows:

> *"The Authority notes that from the date the powers of the Authority under Chapter 3 of the Act were notified (this date being 1st September 2009) BIAL has not posted any losses in its Profit and Loss statements for the period 2009-10 and 2010-11. Hence the question of considering any Pre-control period shortfall for the purpose of determination of Aeronautical Tariffs for the current control period does not arise."*

5.2.6 However, the Authority took a slightly different view in the Consultation Paper for the second control period. While the decision to limit the pre-control period losses was restricted to the date of formation of AERA, i.e. 1st September 2009 instead of taking losses into account, the ARR was calculated from 2009 to 2011 on a 40% Hybrid Till basis considering the asset allocation ratios decided earlier and giving effect to other adjustments as detailed in the Consultation Paper. This was done, in order to be consistent with the treatment given in the Consultation Paper for similarly placed HIAL, wherein the Authority decided to consider the shortfall of revenues from the ARR for the period. The over recovery in case of BIAL was worked out as follows, which was proposed to be deducted from the ARR for the second control period.

Table 5: Re-computed Pre-control ARR and (Under)/ Over Recovery detailed in Consultation Paper 05/ 2018-19 (Rs. Crores)

Particulars	FY 2009	FY 2010	FY2011	Total
Average RAB for calculating ARR	1,565.26	1,516.85	1,413.96	
Fair Rate of Return	8.33%	9.16%	9.80%	
Return on Assets	111.47	138.91	138.60	
WC Interest etc.	0.00	1.18	0.73	
Depreciation	97.20	116.05	116.27	
Opex	123.08	132.05	136.22	
Estimated IT reimbursement	0.00	3.17	12.08	
Total Gross ARR	331.75	391.35	403.90	
Less: Deductions for Non-Aero. Revenues	-33.33	-38.72	-52.28	
Add: Concession Fee on Regulated charges	9.64	15.54	17.63	
Net ARR	308.06	368.18	369.25	
Actual Revenues	241.04	388.46	440.70	
Over/ (Under Recovery)	-67.03	20.28	71.45	
Over/ (Under Recovery) from September 2009		11.83	71.45	83.28
Over/ (Under Recovery) indexed till 1st April 2016				141.55

5.3 Stakeholders' comments on Authority's analysis of Pre-Control period Shortfall

5.3.1 APAO has stated the following:

"...In the Consultation Paper, the Authority has proposed not to consider BIAL's Pre-control Period entitlement viz, period prior to the Airport Opening Date up to notification of powers of the Authority for tariff determination in September 2009. We would like to draw the Authority's attention to the TDSAT Order wherein the Tribunal has rejected a technical plea contending that the regulator had no jurisdiction to determine tariffs for a period prior to the notification of its powers in September 2009. The Tribunal upheld that there is no express or implied embargo prohibiting the Authority from regulating prior to notification of its powers for tariff determination. In fact, the TDSAT Order has clarified that any tariff determination exercise left unfinished by the Central Government could be finished by AERA once it was legally constituted.

In addition, Para 67 of the TDSAT Order clearly slates that the Central Government was fully aware of the tariff determination exercise by the Authority in the case of DIAL for the period as it has issued communications relating to tariff fixation without any objections. In such a scenario, the Tribunal observed that it would be futile to direct the Central Government to go through the formality of fixing tariffs when it cannot complete the exercise in a meaningful and proper manner so as to avoid retrospect impact and delay. Finally, it was also mentioned that Section 13 of the AERA Act "gives sufficient latitude in selecting an appropriate beginning of the first regulator term of 5 years subject to rules of transparency and fairness." This clearly dismisses the argument of the Authority not having jurisdiction over the period prior to the notification of its powers.

In addition, we would also like to refer to the letter dated 3 April 2008 issued by the Ministry of Civil Aviation ("Ministry") to BIAL (ref AV 200015/003/2003-AAI), which explicitly clarifies that the UDFs approved by the Ministry following the commencement of airport operations had been determined on an ad-hoc basis and that the same would be finalized at a later date in accordance with the Ministry's Guidelines and BIAL's Concession Agreement.

Further the domestic UDF determined by the Ministry in case of BIAL was only notified in January 2009 (ref letter: AV.20036/07/2008-AD), which was seven months after the commencement of airport operations, and hence inconsideration of such prior period shortfall does not seem justified. BIAL suffered shortfall cumulatively for the period since the construction of the airport up till March 2011.

It is pertinent to point out that in case a particular period of airport operation is not considered, the airport operator would incur considerable financial loss. Needless to mention that the losses of the airport operator results in an indirect benefit to the community of airport users at the expense of the airport operator. Economic regulation of the sector aims at ensuring a balance between the interests of different stakeholders and does not envisage any particular stakeholder being in a better position at the unjustified expense of other. Therefore, not regulating a particular period where aeronautical tariffs were below the regulated levels is clearly a case of enhancement of the interest of airport users at the unwarranted expense of the airport operator.

Accordingly, we would request the Authority to consider the pre-Airport Opening Date and Pre-control Period shortfall for determination of tariffs for the second Control Period..."

5.3.2 BPAC has stated the following:

"...In its submission to AERA, KIAL has requested the Authority to consider the pre-control period shortfall in its entirety and allow KIAL to recover the shortfall incurred during the Pre-Control Period. As per the decision passed by AERA in the Order for the first control period tariff determination, the Authority noted that, from the date the powers of the Authority under Chapter 3 of the Act were notified (this date being 1st September 2009) BIAL has not posted any losses in its Profit and Loss statements for the period 2009-10 and 2010-11. Hence the question of considering

any Pre-control period shortfall for the purpose of determination of Aeronautical Tariffs for the current control period does not arise.

We would further like to highlight that KIAL has been collecting UDF even prior to the year when AERA was formed. We therefore request AERA to disallow the request by KIAL to recover the pre-control period losses…"

5.3.3 HIAL has stated the following:

*"…**Pre-control eligibility:** While calculating eligibility towards pre-control period, Authority has considered pre-control period starting from 1st Sept' 2009 to 31st March' 2011. Bengaluru Airport commissioned Terminal operation in May'2008 however authority considered tariff determination period starting from 1st Sept'2009 basis the date on which Authority's power came into force in chapter III and VI of the AERA Act.*

Since airports are regulated and tariff is determined under regulated framework, the commencement of determination shall be from the date of commissioning of the Terminal. As per the concession agreement, BIAL prior to the appointment of Independent Regulatory Authority (IRA) should seek approval of MoCA for applicable Airport charges based on final audited project cost. Initially MoCA in case of BIAL had approved adhoc tariff based on the information and as part of normal tariff determination process followed by authority the tariff is always subject to true up based on actual financial numbers. Accordingly, BIAL had submitted true up calculations for pre-control period along with first control period tariff filing to AERA who was in place by that time. Since the MoCA has relinquished its rights and obligation regarding tariff determination to AERA, it is AERA's responsibility to act on behalf of MoCA and determine tariff accordingly.

Also, the appellate tribunal TDSAT in a recent case of Delhi International Airport Ltd (DIAL) had dealt with the similar issue and ordered following:

"Once AERA was legally constituted from September 2009, the unfinished exercise could have been finished only by AERA. Clearly, the central government has the authority to consult independent expert body for the period between 01.04.2009 and 01.09.2009 when AERA came into existence. The exercise by AERA for that period has been within the knowledge of central government which has issued communications relating to tariff formulation. In absence of any objection from any quarters including central government, it would be futile to direct the Central Government to go through the formality of fixing the tariffs for the 5 months between April'2009 and August'2009 when Central Government cannot exercise in a meaningful and proper manner so as to avoid retrospectively any delay."

Above order clearly states that AERA has stepped into MoCA role as far as tariff determination is concerned and any unfinished work of MoCA has to be completed by AERA. Accordingly, we request AERA to take cognizance of above order of TDSAT and consider pre-control period starting from 1st April 2009 instead of 1st Sept 2009…"

5.3.4 IATA has stated the following:

*"...**Truing Up of First Control Period ARR:** - For the first control period AERA used a 40% shared till, but was clear that the true up mechanism would be made on a Single till basis. However, it is now proposing to change such decision and to adopt a true up on the basis of a 40% shared till on the basis of "expansion needs". AERA should not change its decision solely on the basis of capital expenditure needs as that would spare shareholders from the responsibility to provide adequate capital to finance investments. Moreover, it would constitute prefunding, and on top, the capex will be included in the RAB and the company would be remunerated for it.*

If AERA still wished to consider a 40% share till despite our well-justified arguments, then we urge AERA to at the least avoid users paying twice for the same assets. In this regard, the difference (in funds paid by users) between the application of a true up on the basis of a single till vs using 40% shared till should be subtracted from the RAB. By doing this, users would be at least spared from double paying for the same assets (the same would apply for any calculations for pre-first control periods)"

"...While we recognise that the proposed amendment is better than what the airport proposed, we believe that such adjustment should be calculated on a Single till basis..."

5.3.5 FAIRFAX has stated the following:

*"...**Pre-Control period losses not considered for tariff determination by AERA:** - A letter from the Ministry (ref: AV 200015/003/2003-AAI dated 03.04.2008) to BIAL mentions that the UDFs approved by The Ministry upon opening the airport were determined on ad-hoc basis and that a final decision in that regard was yet to be taken. The letter also states that the tariffs were interim in nature and would be finalized at a later date as per the Guidelines of the Ministry and the Concession Agreement.*

However, the AERA proposes to compute Pre-control period shortfall/ over recovery of revenues from the period the AERA has jurisdiction (September 2009) and not to consider the pre-airport Opening date losses incurred prior to September 2009. As per the AERA, it does not have jurisdiction to regulate over a period prior to the date the powers under Chapter 3 of AERA Act 2008 were notified.

We would like to submit that the Concession Agreement contains explicit provisions, which assures the appropriate tariff determination either by the Ministry or AERA as the case may be. As explained above initial tariffs were determined on ad hoc basis by the Ministry and AERA needs to consider these ad hoc tariffs from the date of inception rather than from September 2009 while computing Pre-control period shortfall/ over recovery of revenues. Any different approach by AERA will result in a situation wherein airport will not be compensated for its due performance. In view of above, we request AERA to consider the pre – control period losses in its entirety and allow BIAL to recover the shortfall of revenue incurred during Pre – Control Period..."

5.3.6 Sanjeev V Dyamannavar has stated as below:

"...We request AERA to not entertain the request by KIAL to recover the pre-control period losses..."

5.3.7 Siemens has stated the following:

"...Pre-Control Period Losses not considered for tariff Determination:- A letter from the ministry (ref: AV 200015/003/2003-AAI dated 03.04.2008) to BIAL mentions that the UDFs approved by the ministry upon opening of the airport were determined on ad-hoc basis and that a final decision in that regard has yet to be taken. The letter also states that the tariffs were interim in nature and would be finalized at later date as per the guidelines of the ministry and concession agreement.

However, the AERA proposes to compute Pre-Control Period Shortfall/ Over Recovery of Revenues from the period the AERA has Jurisdiction (September 2009) and not to consider the pre-airport opening Date losses incurred prior to September 2009. As per the AERA, it does not have jurisdiction to regulate over a period prior to the date the powers under chapter 3 of the AERA Act 2008 were notified.

In the Case of Major Airports in India, including BIAL, as mandated by law, aeronautical tariffs are to be regulated and an airport operator cannot suo moto adjust / increase its Tariffs- even to recover any losses. In these Circumstances, non-consideration of such losses incurred by authority would lead to BIAL bearing these losses- which is against basic principles of economic regulation regime in the country. We request AERA to consider the pre-control period losses for Tariff Determination..."

5.4 BIAL's response to Stakeholders' comments on Authority's review of Pre-Control period losses

5.4.1 BIAL has agreed with the comments made by HIAL and APAO.

5.4.2 On comments made by BPAC, BIAL has stated that:

"...B.PAC has suggested that any Pre-Control Period shortfall for the purpose of determination of aeronautical tariffs for the current control period should not be considered based on the Authority's decision of First Control Period, wherein it was not allowed.

BIAL submits that the Authority had decided to not consider either losses or gains generated during Pre-Control period for tariff determination of first control period. However, in the current CP, the Authority is proposing to consider performance from September 2009 instead of considering the entire Pre-Control Period.

BIAL would like to highlight that in paras 66 and 67 of the TDSAT Order, the Tribunal has held that the Authority has full jurisdiction over the Pre-Control Period. Relevant extracts from the TDSAT Order have not been reproduced for the sake of brevity and can be referred to our detailed submissions made in response to the CP.

Accordingly, BIAL would like to submit that the Authority should relook into its approach and consider the Pre-Control Period losses in its entirety. Alternatively, Authority should not consider the partial performance of Pre- Control Period and to consider performance from First Control Period onwards till the matter gets resolved in the Hon'ble TDSAT.

BPAC has highlighted that BIAL has been collecting UDF even prior to the year when the Authority was formed and therefore requested the Authority to disallow BIAL from recovering the Pre-Control Period losses.

BIAL submits that at the time of opening of the airport, the Ministry allowed BIAL to collect ad-hoc tariff (ref: AV 200015/003/2003-AAI dated 03.04.2008) through the determination of International UDF. Further, the Mlnlstry determlned Domestic UDF in January 2009 (ref letter: AV.20036/07/2008-AD) i.e. seven months after the airport-commenced operations, which led to a shortfall in recovery.

The Ministry's letter also states that the tariffs were interim in nature and would be finalized at a later date as per the Guidelines of the Ministry and the CA. The CA provides for tariff determination either by the Ministry or by the Independent Regulatory Authority (IRA) as the case may be. Neither the Ministry nor the Authority (IRA) completed the tariff determination exercise. The Authority has determined tariffs effective from September 2009 in the CP without considering Pre-Control Period losses, which is detrimental to BIAL. Hence, BIAL requests the Authority to consider the Pre-Control Period losses as detailed in its response to the CP..."

5.4.3 On comments made by IATA, BIAL has stated that:

"...1) In the context of consideration of shortfall/over recovery for the Pre-Control Period, BIAL notes that IATA has not provided any justification to support its submission of why Single Till has to be considered for true up purpose.

2) BIAL differs with IATA's submission and reiterates its request the need to consider the true up for Pre-Control Period at 30% SRT as adopted for similarly placed airports such as HIAL. Articles 10.2 and 10.3 of the CA indicate the adoption of Dual Till for tariff determination by mentioning the term "Airport Charges" which are to be regulated and "Other Charges" which BIAL would be free to fix. Despite the fact that CA proposed a Dual Till, the Authority has applied a shared till methodology for BIAL.

3) Further, the Concession Agreements of DIAL and MIAL, which were awarded subsequent to BIAL had incorporated 30% SRT. The Ministry has issued a policy direction in the case of HIAL under section 42(2) directing the Authority to consider 30% SRT. Thus, the Authority should also true-up Pre- Control Period under 30% SRT for BIAL to have consistency with similarly placed airports..."

5.4.4 On comments made by Sanjeev V Dyamannavar, BIAL has stated that:

"...1) Respondent has requested the Authority not to entertain the request of BIAL to recover Pre-Control Period losses.

2) BIAL submits that it has justified its position based on judicial pronouncements and prior treatments of the Authority in this regard. BIAL's detailed response on the matter has been provided in its response to the CP..."

5.5 BIAL's comments on Authority's analysis on Pre-Control period shortfall

5.5.1 BIAL has submitted as follows:

"...Treatment of Pre-Control period shortfall prior to notification of AERA's powers for tariff determination

In Decision No. 2 of the Authority's Order No. 8/2014-15 in respect of the tariff determination for BIAL's First Control Period, the Authority held that it would not consider any shortfall/over-recovery prior to notification of its powers in September 2009. An extract from the same is as given below:

....

The Authority's proposal as part of the recent CP is as follows:

....

It can be seen that while in the Tariff Order for the First Control Period, the Authority had chosen not to consider either prior period losses or gains while computing the tariffs, in the CP, the Authority has proposed to consider only performance of the airport since September 2009 and has ignored the performance prior to September 2009.

BIAL's Response

Authority's jurisdiction to regulate a period prior to the notification of its powers

UDF determination by AERA vide Order No. 6/2010-11 for HIAL

Authority may note following extracts from its aforementioned Order, in the matter of revision of User Development Fee ("UDF") at HIAL and an associated letter sent by HIAL to the Ministry dated 02.08.2009 for the upward revision of UDF:

"2.2 Based on the provisions in the CA and the application made in this behalf by HIAL, the Ministry of Civil Aviation allowed a levy of UDF @ Rs.1000/- (inclusive of taxes) per international departing passenger w.e.f 23.04.2008 and @Rs. 375/ (inclusive of taxes) per departing domestic passenger w.e.f 18.08.2008 (vide letters No.AV.2001S/03/2003-AAI dated 28.02.2008 and No.AV.20036/28/2004-AAI (Vol.IV) dated 18.08.2008 respectively), on adhoc basis...."

"2.3 ....HIAL submitted that in the meanwhile, they had started collecting the provisionally approved domestic UDF @ Rs.375/- departing passenger, under protest. HIAL also stated that as a result of the lower UDF approved for domestic passengers, they were incurring a substantial loss of Rs.16 crores per month."

"4.1 HIAL vide their letter Ref: GHIAL/F&A/UDF/2009-10/2 dated 02.08.2009 addressed to the Ministry, had requested for upward revision of UDF as under........

4.2 The aforesaid request was transferred by the Ministry for the Authority's consideration in October, 2009..."

Based on the extracts of the Order and HIAL's letter mentioned above, the Authority had considered letter from the Ministry and determined UDF for HIAL from its inception.

It can be seen that the Authority has exercised its powers to determine tariffs for period prior to the notification date. Consequently, nothing precludes the Authority from regulating the pre-control period prior to the notification of its powers.

Impact of TDSAT Order in the case of DIAL directing to consider pre-control period performance while determining tariffs.

Further, BIAL would like to draw the Authority's attention to the TDSAT Order, which dismisses a technical plea, which contended that the regulator had no power or jurisdiction to determine tariffs for a period prior to the notification. The TDSAT Order mentions that learned senior counsel, appearing on behalf of FIA (respondent No.2 in Appeal No.10 of 2012) raised a technical issue as given below:

"... source of power for the Regulator is located in Section 13 of the Act which came into effect only on 01.09.2009 and hence the Regulator had no power or jurisdiction to determine tariff from an earlier date of 01.04.2009. As per this submission the tariff prior to 01.09.2009 could have been determined only by the Central Government because AERA was not constituted by then."

The relevant extract from the abovementioned TDSAT Order in response to the plea has been reproduced below:

"67. The aforesaid technical plea has been raised by learned counsels appearing for different respondents as well. In view of a clear and categorical reply that it has no direct bearing with the substance of a tariff formulation exercise, this plea is rejected outrightly for the simple reason that none of the parties are adversely affected on this account."

Further, the Tribunal also held that the Authority could finish an unfinished exercise of tariff formulation by the Central Government once it was legally constituted. An extract confirming this view from para 67 of the TDSAT Order is replicated below:

"Even if the rightful authority, the Central Government had initiated the exercise of tariff formulation for the period of 5 years beginning from 01.04.2009, it would have remained inclusive and liable to be criticized as an action by an interested party and not as an independent statutory authority. Once AERA was legally constituted from September 2009, the unfinished exercise could have been finished only by AERA."

Further, para 67 of the TDSAT Order reaffirms the Authority's jurisdiction over such a period by stating that the tariff determination exercise by the Authority for the period has been within the knowledge of the Central Government, which has issued communications relating to tariff formulation. Hence, in the absence of any objection from any quarters including the Central Government, it would be futile to direct the Central Government to go through the formality of fixing tariffs when Central Government cannot complete that exercise in a meaningful and proper manner so as to avoid retrospectivity and delay.

Additionally, Para 67 of the TDSAT Order mentions that "Section 13 of the Act gives sufficient latitude in selecting an appropriate beginning of the first regulatory term of 5 years subject to rules of transparency and fairness." Hence, there appears no reason why the Authority should not consider determining tariffs for the period prior to the notification of its powers, as it has sufficient latitude in selecting an appropriate starting point for regulation.

Thus, based on the TDSAT Order, it is clear that the Authority has full jurisdiction over the pre-control period and should consider KIAB's operations from the date of commencement of the airport. Further, BIAL has sought an opinion from Justice Sirpurkar on the Authority's jurisdiction over the period prior to the notification of the Authority's powers. An extract from his opinion is presented below:

"The principal premise on which AERA refused to consider loss prior to 01.09.2009 was because AERA believed that it did not have jurisdiction to consider shortfall/recovery that transpired before 01.09.2009. However, in view of the categorical finding of Hon'ble TDSAT in paragraphs 66 to 68 that AERA has jurisdiction to consider and determine tariff with effect from 01.04.2009 (i.e., events that transpired even before Section 13 was notified) AERA's principal premise that it does not have jurisdiction is no more correct...

... As the Hon'ble TDSAT has clarified that AERA is empowered and has jurisdiction to consider and fix tariffs for the period prior to 01.09.2009, AERA should exercise such jurisdiction and fix tariffs taking into consideration the expenses and losses incurred by the Querist from the time of incorporation, i.e. even prior to 01.09.2009, and true it up in the current tariff determination exercise."

As stated above, Justice Sirpurkar has opined that the Authority's premise of not having jurisdiction is no longer correct and the Authority ought to exercise its jurisdiction with respect to BIAL's pre-control period prior to 01.09.2009. Justice Sirpurkar also elaborated on the opinion stating that since there cannot be any "compartmentalization in the period prior to notification of AERA and thereafter" and that "consideration of the later period depends on the fact situation in the previous period", it would be reasonable to say that the Authority should take into consideration the expenses and losses incurred by the BIAL from the time of its incorporation.

On Authority's proposal to consider reduction in Initial Project Cost by Rs 69.45 crore based on the Engineers India Ltd ('EIL') report

***AERA's Treatment** - As per the CP, the Authority has stated the following for reducing the Initial Project cost: "The Authority had, in MYTO-CP1 Paras 10.34 to 10.41 considered the report submitted by Engineers India Limited (EIL) whereby Opening RAB was reduced by Rs. 69.45 Crores. The Authority proposed to continue with the adjustment for the purpose of arriving at Opening RAB for the second control period also."*

***BIAL's Response** - Dis-allowance of certain capex from the initial capitalization – exercise of jurisdiction of the Authority relating to prior control period BIAL would like to highlight that while* *the Authority has not considered performance of the airport for the Pre-Control Period before September 2009, the Authority has disallowed costs incurred even prior to September 2009, based on the EIL report (Disallowance from Opening RAB). This treatment of the Authority of disallowing certain capital expenditure from opening asset base reflects it exercising powers for a period prior to September 2009. This suggests that the Authority has the powers to determine tariffs for periods prior to the notification date.*

Context of "ad-hoc" UDF determination for KIAB

A letter from the Ministry (ref: AV 200015/003/2003-AAI dated 03.04.2008) to BIAL mentions that the UDFs approved by the Ministry upon opening of the airport were determined on ad-hoc basis and that a final decision in that regard was yet to be taken. The letter also states that the tariffs were interim in nature and would be finalized at a later date as per the Guidelines of the Ministry and the CA. An extract from the aforementioned letter has been reproduced below:

"3. Once the final audited accounts have been submitted by Bangalore International Airport Limited (BIAL) to Govt. of India, a final decision will be taken on fixation of UDF charges both for domestic and international departing passengers. The ad-hoc UDF would remain in force till the earlier of the following:

a. Final audited figures submitted by BIAL,

b. Guidelines for determination of UDF finalized by Ministry of Civil Aviation (MoCA), or

c. 3 months from airport opening date.

The tariff would be finalized thereafter as per the Guidelines of MoCA and the Concession Agreement."

Domestic UDF determined by the Ministry in case of BIAL was issued in January 2009 (ref letter: AV.20036/07/2008-AD) i.e. seven months after the airport-commenced operations. In the circumstance, it would not be justified, if BIAL was not allowed to recover such shortfall in revenues when it is clear that the Ministry clearly intended to do so when the Authority was in place.

Hence, the Authority's proposal not to consider the portion of pre-control period prior to the notification of the Authority's powers ought to be re-examined based on the aforementioned letter by the Ministry and with respect to the decisions taken in the recent TDSAT Order.

As highlighted earlier, based on the letter issued by the Ministry (ref: AV 200015/003/2003-AAI dated 03.04.2008), tariffs fixed were ad-hoc in nature and were subject to final tariff determination subsequently. Authority may also note that pursuant to the above-mentioned letter by Ministry, BIAL had addressed two letters dated 09.01.2009 and 18.02.2009 to the Ministry requesting for an increase in the UDF and the Ministry had forwarded the same to the Authority for necessary action. Therefore, the reasoning in the MYTO CP1 as recorded in Clause 3.1.2 that the Ministry has not provided any directive to the Authority to carry out the analysis of the ad-hoc tariff fixed by the Ministry is incorrect. As can be seen from these events, the Ministry's tariff determination was ad hoc in nature and a final determination at the hands of the Ministry did not take place. The

Authority has incorrectly proceeded on the basis that the Ministry may have taken the same into account. The ad-hoc tariff continued to be in existence till 31.03.2011 and the Authority determined tariff from 1.4.2011 without considering the performance before 01.04.2011. Under such circumstances, BIAL submits that no decision be taken, to its detriment, on an uncertain and erroneous premise by Authority.

The CA of BIAL provides for tariff determination either by The Ministry or by the Independent Regulatory Authority (IRA) as the case may be. Initially, the Ministry determined ad-hoc tariffs where final tariffs were to be determined during a subsequent period. However, the Authority has determined tariffs effective from the First Control Period, after the setting up of the Authority. In this CP, the Authority is proposing to consider tariffs from September 2009 rather than inception of the airport leaving the tariff determination incomplete for the period from inception of airport to September 2009. In view of commitments provided by the CA, we request the Authority to determine tariffs since the inception.

Accordingly, BIAL reiterates that the Authority is empowered to take into account pre-airport opening date losses. This can be seen from the fact that, to determine RAB, the Authority has considered assets created on airport opening date viz. assets created in Pre-Control Period.

Shortfall suffered by BIAL during the pre-control period: - *Being a regulated entity, the performance of BIAL has to be adequately compensated considering the shortfall since inception of BIAL rather than from September 2009. Any other approach by the Authority such as consideration of performance from September 2009 will result in a situation where BIAL is not compensated adequately.*

Treatment of Authority in first control period towards pre-control period losses – Request Authority alternatively to maintain consistency with Control Period 1.

In the first control period tariff determination, Authority has not considered either losses or gains generated during pre-control period and considered the performance of BIAL starting from first control period. However, during above, CP Authority is proposing to consider performance from Sep 2009 instead of considering full pre-control period. In this regard, BIAL would like to submit that Authority may relook into its approach and alternatively not consider the partial performance of pre-control period and to consider performance from first control period onwards till the matter gets resolved.

BIAL Submission: - *Based on the above, BIAL requests the Authority to consider its actual performance during the Pre- Control Period in its entirety, i.e. since its inception, supported by auditor certificates, and allow it to recover the shortfall during such period. In the alternative, BIAL requests Authority not to reduce purported over recovery until such time that the Hon'ble TDSAT decides on this issue.*

On Authority's proposal to consider 40% SRT for the purpose of true-up of Pre- Control Period and First Control Period.

AERA's Treatment: *As per the CP, the Authority has stated as below for true-up of the Pre-Control Period and the First Control Period:*

.....

BIAL's Response - Regulatory till prescribed under BIAL's CA: - *BIAL's CA is a pioneering concession signed on PPP basis. Articles 10.2 and 10.3 of the CA indicate the adoption of Dual Till for tariff determination by mentioning the term "Airport Charges" which are to be regulated and "Other Charges" which BIAL would be free to fix. Despite the fact that CA proposed a Dual Till, the Authority has applied a shared till methodology for BIAL.*

Precedents of 30% SRT for PPP Airports in India: - *The Concession Agreements of DIAL and MIAL, which were awarded subsequent to BIAL and HIAL, had incorporated 30% SRT.*

The Ad-hoc UDF determined by the Ministry for BIAL for the period post Airport Opening Date was on the basis of cross subsidization of 30% from non-aeronautical revenue, though the CA did not provide for any cross subsidization from non-aeronautical revenue.

The Authority has based this proposal on the Ministry's letter dated 24.09.2013 to the Authority recommending adoption of 40% SRT in case of BIAL in view of the funds required for expansion of the airport. BIAL submits that a consideration of the above letter in its entirety discloses it to be clarificatory in nature. In other words, the letter cannot be considered as a direction by the Central Government under Section 42(2) of the AERA Act.

The Ministry has issued a policy direction (via letter dated 11.06.2015) in the case of HIAL under section 42(2) directing the Authority to consider 30% SRT. It may be noted that in the context of legal framework, both BIAL and HIAL airports have similar Concession Agreements and are structured similarly in terms of land lease agreement, viability gap funding, etc. The Authority itself has taken a stand in HIAL's Consultation Paper for the Second Control Period wherein as per Para 2.14, it has observed that "The concession agreement in the case of Hyderabad is also similar to that of Bangalore." This further corroborates BIAL's position that there should not be any difference in the percentage of shared till between HIAL and BIAL.

Also, as the National Civil Aviation Policy 2016 (NCAP) envisages a uniform 30% SRT for all major airports (which is accepted by the Authority in Order No.14/2016-17), the supposed differences and distinction in the major airports should not have any bearing on determination of till methodology. It is true that the NCAP is prospective. However what BIAL is submitting that the Ministry has taken a policy decision that the distinctions and differences in the major airports, if any, are not relevant for determination of till methodology. The direction for Hyderabad airport for first control period further entrenches this position. Therefore, the reasons mentioned in Clause 4.3.3. of the differences in the airports resulting in differential treatment for till methodology may not be correct and it is requested that a uniform approach be adopted. Therefore, BIAL submits that the Authority must treat BIAL on fair and non-discriminatory terms, and adopt 30% SRT for BIAL as well.

Opinion from Former Chairperson AERAAT justifying adoption of 30% Shared Revenue Till - Further, in an opinion sought from Justice Sirpurkar on the appropriate till mechanism to be adopted by the Authority for the First Control Period; he opined that considering the similarity between BIAL and HIAL with respect to their Concession Agreements, a policy directive in respect of HIAL should also be applied in the case of BIAL as well. An extract from his opinion has been reproduced below:

"4.4 MoCA has issued a policy directive dated 10.06.2015 that 30% SRT be applied in case of Rajiv Gandhi International Airport, Hyderabad ('Hyderabad airport or HIAL'). This policy directive has been referred to in Consultation Paper No.30/2017-18 issued in respect of the Hyderabad airport and AERA has proposed to undertake a true up exercise on the basis of 30% SRT for the first control period for Hyderabad airport. Although the policy directive is issued in respect of Hyderabad airport, considering the similarity of both airports and especially in view of the striking similarity in the Concession Agreements of the airports at Bengaluru and Hyderabad, the principle behind the policy directive issued in respect of Hyderabad airport should also be applied in respect of Bengaluru airport by AERA."

Further, Justice Sirpurkar referred to other private airports stating that the Authority may consider that other private airports including Mumbai, Delhi and Hyderabad have been regulated under the 30% SRT for the First Control Period and Bengaluru airport alone is being regulated under 40% SRT. Accordingly, by referring to object of creating a level playing field for the airports, Justice Sirpurkar has suggested to avoid a discriminatory treatment for BIAL stating as follows,

"...The statement of objects and reasons to the AERA Act set out the requirement of creating a level playing field amongst different categories of airports. One of the ways in which AERA can create a level playing field for all private major airports that are similarly situated, i.e. Delhi, Mumbai, Hyderabad and Bengaluru is to ensure that their tariff determination is undertaken on a similar methodology for the first control period as well."

***BIAL's Submission: -** Given the fact that all prior policy evidence points towards 30% SRT, the same needs to be applied in the case of BIAL as well. Accordingly, BIAL requests the Authority to adopt 30% SRT for true up of Pre-Control Period and First Control Period.*

5.6 Authority's examination of Stakeholders' comments on Pre-control period

5.6.1 The Authority has carefully considered the submissions made by BIAL and other stakeholders.

5.6.2 To summarise, BIAL has submitted the following with reference to pre-control period losses:

5.6.2.1 The Authority to consider BIAL's actual performance during the Pre-Control period in its entirety i.e. since its inception, supported by auditors certificates and allow it to recover the shortfall during such period. In the alternate BIAL requests Authority not to reduce purported over recovery until such time that the Hon'ble TDSAT decides on this issue.

5.6.2.2 The Ministry of Civil Aviation has fixed only adhoc tariff and as per the TDSAT order the Authority could finish the exercise of tariff determination.

5.6.2.3 The TDSAT order gives adequate power to the Authority to go beyond the date of formation of AERA and compensate the Airport Operator for the losses incurred.

5.6.2.4 While calculating the shortfall in ARR for the pre-control period, instead of allowing a 40% Hybrid Till, a 30% Hybrid Till may be allowed in case of HIAL.

5.6.3 The Authority also notes that BIAL has drawn reference to TDSAT Order passed for DIAL equating that any unfinished works that the previous regulator had left could be completed by AERA. Authority also notes BIAL submission that there is sufficient provision in AERA Act to determine the starting date of a Control Period.

5.6.4 The Authority notes that the Authority had detailed its reasoning for considering 1st September 2009 as the relevant date for evaluation of the shortfall/ over recovery.

5.6.5 The Authority also notes that in case of BIAL, the Authority had requested BIAL to submit details for computation of Adhoc UDF which BIAL had not provided to the Authority. (Detailed chronology of events in this regard have been listed in CP 14 issued for the first control period). In case of HIAL, the Authority had determined Adhoc UDF and had to review the results of the period from which the Authority came into existence and considered the losses incurred.

5.6.6 The Authority notes that BIAL has stated that the tariff determined by MoCA was adhoc and the final determination of the tariff did not take place. The Authority notes that MoCA has not provided any directive to the Authority to carry out an analysis of the adhoc tariff that had been determined by MOCA. Hence, as elaborated in CP 22 issued for the first control period, the Authority decides not to reckon, in the current tariff determination any period before the Authority's powers were notified effective September 2009.

5.6.7 The Authority notes that BIAL and the stakeholders supporting its claim for pre-control period losses have placed a good deal of emphasis on the TDSAT order on the fixation of control period for DIAL. In the case of DIAL, the choice of the control period was the main issue. The State Support Agreement of DIAL stipulated that the tariff determination should commence from the fourth year of operations by DIAL and therefore the Authority decided to fix the control period from 1st April 2009 more as a matter of convenience since the financial accounting period starts from 1st April and it would have been cumbersome and time consuming to separate the accounts from 1st September. The Authority is of the view that the Hon'ble TDSAT has upheld this practical stand taken by the Authority in its order relating to first control period order for DIAL. The Hon'ble Tribunal had noted that prior to the formation of AERA if MoCA had started the process of tariff determination it could not have finalised it within the short period available and therefore the unfinished work would have to be rightly entrusted to AERA which was by then in place. This should not be used as the ground for retrospective tariff determination for a period prior to the control period fixed by AERA and a period prior to the formation of AERA. Process of going beyond and before the determined control period could result in never ending claims from other Airports viz. AAI Airports etc.

5.6.8 The Authority also notes BIAL's request to alternatively not determine Pre-control period shortfall / over-recovery till the Appellate Tribunal decides on the appeal filed by BIAL. The Authority had in its Consultation Paper proposed to deduct the over recovery for the period from 1st September 2009 mainly on the ground that the approach and methodology should be consistent in the case of HIAL & BIAL. BIAL had approached the Authority to mitigate its losses during the pre-control period. Normally, the Authority should confine the process of tariff determination only to the control period. In case any Airport Operator claims hardship by way of losses, the Authority might consider it, from the date of its formation. And if there is no hardship, the right approach would be to Ignore the transactions prior to the Control period and limit itself to the tariff determination for the control period only as decided in the tariff order for the first control period. Besides, the Authority notes that this matter is sub-judice and the Authority would take a suitable view in accordance with the orders of the Appellate Tribunal in this matter.

5.6.9 Having regard to all the above factors, the Authority has re-examined its approach to the claim of the airport operator for pre-control period losses and decides on the following:

5.6.9.1 Normally the Authority should confine its tariff determination process to the Control Period.

5.6.9.2 In case an airport operator claims that there were losses in the pre-control period, the Authority may take in to consideration any shortfall in revenues from the ARR from the time of its formation i.e. 1st September 2009.

5.6.9.3 The Authority shall consider the shortfall in revenues and not the losses as in the books of accounts.

5.6.9.4 In case there is no shortfall, the Authority shall limit its tariff determination process only to the control period.

5.6.10 This approach will imply that the over recovery as assessed for the period from September 2009 in the Consultation Paper for the second control period will not be clawed back and that the decision taken by the Authority in the first control period will be allowed to stand.

Decision No. 2. Regarding truing up of Pre-Control period shortfall

2.a. Based on the material before it and its analysis, the Authority decides

i. **To confine its true up process to the first control period and to not consider any Pre-control period shortfall/ over recovery in computing the ARR for the second control period.**

ii. **The Authority notes that this matter is sub-judice and the Authority would take a suitable view in accordance with the orders of the Appellate Tribunal in this matter.**

6 Review of First Control Period

6.1 BIAL's submission on True up for First Control Period

6.1.1 BIAL had, as part of MYTP submissions for the second control period, requested the Authority to consider 30% Hybrid Till as the applicable Regulatory Framework for true up of the First Control period also, in line with the Civil Aviation Policy and the amended guidelines issued by the Authority.

6.1.2 Accordingly, BIAL had submitted the following computations of Under/ Over Recovery for the First Control Period (considering BIAL's estimated FRoR, treatment of CGF revenues, etc):

Table 6: ARR for First Control period and (Under)/ Over Recovery as submitted by BIAL (Rs. Crores)

Particulars	2011-12	2012-13	2013-14	2014-15	2015-16	Total
RAB	1,392.56	1,286.33	1,904.08	2,505.53	2,356.11	
FRoR	12.60%	12.60%	12.60%	12.60%	12.60%	
FRoR * RAB	175.39	162.01	239.82	315.57	296.75	1,189.56
Depreciation	122.64	126.25	133.65	194.73	187.98	765.25
Opex	166.83	234.28	222.75	265.34	264.85	1,154.04
IT reimbursement/ Working Capital	0.93	0.81	0.59	1.18	3.68	7.18
Less: Non-Aero Revenues	-75.60	-76.40	-85.10	-102.82	-130.97	-470.89
Add: Concession Fee 4% or Actuals	15.16	14.75	15.47	23.42	28.39	97.18
ARR computed	405.35	461.70	527.18	697.43	650.68	2,742.33
Less: Revenues	-378.98	-368.73	-386.69	-585.54	-709.68	-2,429.62
Shortfall to be recouped	26.37	92.97	140.48	111.90	-59.01	312.71
With carrying cost						510.66

6.1.3 BIAL had accordingly included Rs. 510.66 crores as addition to the ARR for the second control period relating to the Shortfall of First Control Period in its MYTP submissions.

6.2 Authority's analysis of True up of First Control Period detailed in the Consultation Paper

6.2.1 In the First Control period tariff order, the Authority had accepted the suggestion of the GoI to adopt 40% hybrid till in order to make available funds to meet the investment requirements of the operator but had stipulated that the true up will be done on single till basis. In the Guidelines for tariff determination for airport operators, the single till philosophy was adopted for all the airports in the country except DIAL and MIAL where the GoI had explicitly stated in the Concession Agreement with these airport operators that a Hybrid till of 30% will be applicable.

6.2.2 Authority had noted in its various decisions in MYTO-CP1 that all items of Regulatory Building Blocks will be trued up and re-evaluated at end of first control period during determination of tariff for the second control period.

6.2.3 Authority had evaluated the actuals for the period till March 2016 and the submissions made by BIAL. The Authority notes that the actuals vary from the estimates mainly due to:

6.2.3.1 Substantially higher growth in actual passengers throughput as compared to the growth rates considered in MYTO-CP1.

6.2.3.2 Reduced Operating Expenditure and Higher Non-Aeronautical Revenues as compared to Projections considered.

6.2.4 The Authority noted the various submissions and arguments put forth by BIAL for considering 30% Shared Revenue Till as the basis for computing the ARR requirements for the first control period.

6.2.5 The Authority noted that the factors considered in case of BIAL in the MYTO-CP1 were different from those considered for HIAL by the Authority in the first control period.

6.2.6 The Authority also noted the fact that BIAL was undertaking large scale Capital Expenditure and that even though it was mentioned in MYTO-CP1 that the ARR would be determined under 40% Shared Revenue Till and collections allowed but Single Till will be considered for truing up, considering the expansion needs, the Authority proposed to consider true up of the First Control Period numbers under a 40% Shared Revenue Till.

6.2.7 Considering other changes in various building blocks as detailed in the Consultation Paper, the recomputed ARR and Under/ Over Recovery for the first control period computed by the Authority considering 40% Hybrid Till was as below:

Table 7: Recomputed ARR and Over/ Under Recovery by the Authority for the First Control Period detailed in Consultation Paper 05/ 2018-19 (Rs. Crores)

Particulars	2011-12	2012-13	2013-14	2014-15	2015-16	Total
Average RAB for calculating ARR	1,308.50	1,209.79	1,835.08	2,444.06	2,302.17	
Fair Rate of Return	10.90%	10.90%	10.90%	10.90%	10.90%	
Return on Assets	142.69	131.93	200.11	266.52	251.05	
Depreciation	115.11	118.72	126.12	187.20	180.45	
Opex	161.27	228.92	210.22	252.53	249.01	
IT reimbursement/ Working Capital	15.56	1.21	8.97	14.17	57.01	
Total Gross ARR	434.63	480.79	545.42	720.43	737.52	
Less: Deductions for Non-Aero. Revenues	-61.92	-63.70	-73.22	-88.89	-112.88	
Add: Concession Fee on Regulated charges	19.45	18.97	19.90	28.64	34.94	
Net ARR	392.17	436.06	492.09	660.18	659.58	
Aero Revenues	486.30	474.28	497.38	715.96	873.45	
(Under)/ Over Recovery	94.13	38.22	5.29	55.78	213.87	407.29
With carrying cost						476.78

6.3 Stakeholder comments on Authority's analysis of Truing up of First Control period

6.3.1 APAO has commented as follows:

"...We note that the Authority has proposed to consider a 40% Shared Revenue Till (SRT) for true up of the Pre-control and First Control Period in the tariff determination for KIA for the second Control Period.

Based on a conjoint reading of Articles 10.2 and 10.3 of BIAL's Concession agreement, which distinguishes between the regulated "Airport Charges" and non-regulated "Other Charges", which are to be fixed by BIAL, it is clear that Dual Till was to be adopted for tariff determination. In fact, the Concession agreement did not envisage any cross-subsidization from non-aeronautical revenue. A comparative study of tariff determination exercises in the case of other PPP airports in the country reveals that the Concession agreements of DIAL and MIAL had incorporated 30% SRT and the provisions of the Concession agreement were duly respected and considered by the Authority. It is also pertinent to note that the concessions for both DIAL and MIAL were awarded subsequent to BIAL, which was the first Concession Agreement signed on PPP basis. This indicates an inconsistent regulator approach by the Authority to consider the provisions of the Concession Agreement only in the case of some airports. This ad-hoc treatment is again reflective of uncertainty in the regulator environment thereby hampering the investment climate.

Even in the Ministry's letter dated 24 September 2013 cited by the Authority for adoption of 40% SRT in the case of BIAL, the Ministry's 'recommendation' was based on its assessment of the fund requirement for expansion of the airport for that period. However, subsequently the Ministry had issued a policy directive under section 42(2) of the AERA Act 2008 directing the Authority to consider a 30% SRT in the case of HIAL including for true up of the Pre-control and First Control Period. Given the similarity in the provisions of the Concession agreement in the case of BIAL and GHIAL and the more binding nature of the MoCA directive issued in the case of GHIAL as compared to the recommendation letter issued in the case of BIAL, the Authority is requested to consider consistent treatment across the two airports.

We would therefore like to submit that in the interest of ensuring consistency in regulator treatments across all airports in the country, the Authority is requested to revise its proposal and adopt a 30% SRT for true of the Pre-control and First Control Period in the case of BIAL as well.."

6.3.2 IATA has stated the following:

***"...Regulatory Till and Principles of Determination of Tariff**: - IATA has objected to the unjustified application of the 40% hybrid till for the determination of the first control period tariff. Although this will be reduced to 30% by AERA to align with the National Civil Aviation Policy for the second control period, we find it important to once again emphasis our disagreement of shifting from Single to a Hybrid till basis as it unnecessarily increases costs for consumers. In this regard, it is a great disappointment that AERA has proceeded to adopt the hybrid till approach, which will make aeronautical charges more expensive and goes against the fundamental requirements to boost air connectivity as envisaged by the National Civil Aviation Policy 2016 in a sustainable manner.*

***Truing Up of First Control Period ARR: -** For the first control period AERA used a 40% shared till, but was clear that the true up mechanism would be made on a Single till basis. However, it is now proposing to change such decision and to adopt a true up on the basis of a 40% shared till on the basis of "expansion needs". AERA should not change its decision solely on the basis of capital expenditure needs as that would spare shareholders from the responsibility to provide adequate capital to finance investments. Moreover, It would constitute prefunding, and on top, the capex will be included in the RAB and the company would be remunerated for it.*

If AERA still wished to consider a 40% share till despite our well-justified arguments, then we urge AERA to at the least avoid users paying twice for the same assets. In this regard, the difference (in funds paid by users) between the application of a true up on the basis of a single till vs using 40% shared till should be subtracted from the RAB. By doing this, users would be at least spared from double paying for the same assets (the same would apply for any calculations for pre-first control period) ..."

6.3.3 FAIRFAX has stated the following:

"...30% Shared Revenue till not applied in case of BIAL for the 1st Control period, which is inconsistent to the approach taken to another similarly placed airport: - The Regulatory Till adopted by AERA is different from the Till mechanism provided for in the Concession Agreement. As per the Concession Agreement, tariff regulation was envisaged for "Regulated Charges" consisting of landing, housing and parking, passenger service fee and user development fee. Further, there is no provision in the Concession Agreement to consider any cross-subsidization from other revenues for determination of Regulated Charges clearly implying Dual till approach.

In spite of the above, we accepted that 30% Shared Revenue Till (SRT) as a workable solution and represented to the Ministry and AERA. Initially, Ministry recommended 40% SRT for BIAL. However, later the Ministry recommended 30% SRT as a policy directive for Hyderabad airport with retrospective effect. We request AERA to consider similar approach of 30% SRT in the case of BIAL as well. Such an approach by AERA will ensure treatment at par for the similarly placed Bangalore and Hyderabad airports, and also ensure consistency with the policy directions under the National Civil Aviation Policy..."

6.3.4 Siemens has stated the following:

***"...30% Shared Revenue till not applied in case of BIAL: -** The Regulatory till as adopted by AERA as against the till Mechanism provided in the concession agreement is different wherein the tariff regulation was envisaged for "Regulatory charges" consisting of landing, housing and parking, passenger service fee and user development fee. Further, there is no provision in the Concession agreement to consider any cross- Subsidization from other revenues for the determination of Regulated Charges clearly implying the Dual Till approach.*

Inspite of the above, we accepted that 30% shared revenue till (SRT) as a workable solution and represented to ministry and AERA, initially ministry recommended 40% SRT for BIAL. However, later the ministry recommended 30% SRT as a policy directive for Hyderabad airport with retrospective effect. Given that Bangalore and Hyderabad have similar concession agreement, we request AERA to consider similar treatment for Bangalore..."

6.4 BIAL's response to Stakeholders' comments on Authority's review of truing up of First Control period

6.4.1 BIAL has submitted as follows for comments provided by IATA:

"BIAL would like to submit in response to IATA comments that with the National Civil Aviation Policy 2016 (NCAP) spelling out the movement towards a 30% SRT, the idea is to create uniform operating environment for existing and prospective airport operators by ensuring regulatory certainty. For attracting higher investments to meet IATA's own projected traffic demand at Indian airports, removing regulatory uncertainties and bringing down differential/unilateral regulatory treatment is vital. Therefore, the regulatory philosophy needs to be guided by the NCAP, which aims at boosting air connectivity and investment in the aviation sector.

Further, as per the Authority's Order No. 14/2016-17 dated 23.01.2017 pertaining to adoption of regulatory till, the Authority has clarified that the differential treatment of regulatory till across different airports has "caused some regulatory uncertainty which is not warranted at a time when greater emphasis is being placed on private investments for airport development." Further, taking into consideration the high growth trends being witnessed by the Indian civil aviation sector, the Authority has clearly outlined that adoption of a Hybrid Till was critical to attract/encourage investments for capacity expansion and modernization across Indian airports. In light of the above reasons, the Authority ordered for the adoption of a Hybrid Till wherein 30% of the non-aeronautical revenues will be used to cross subsidize aeronautical charges.

In view of above, the 30% SRT for Second Control Period is justified.

BIAL notes IATA's disagreement with the Authority's treatment of adopting 40% SRT for true up of First Control Period and Pre-Control Period considering the needs of expansion of KIAB. BIAL however, does not agree with the reasoning provided by IATA that the Authority's decision on the regulatory till should not rely solely on the capital expenditure requirements of the airport as it would relieve shareholders from the responsibility of infusing adequate capital to finance airport projects.

BIAL would like to highlight that in Order No. 14/2016-17 dated 23.01.2017 pertaining to adoption of regulatory till, the Authority, in reference to its decision of adopting 40% SRT in the case of BIAL for the First Control Period, has acknowledged that ensuring the availability of adequate funds with the airport is one of its critical functions. Further, the Authority has accepted that adopting Single Till for tariff determination would constrain the airport's ability to generate adequate funds in a *timely manner thereby restricting their ability to undertake capacity expansion and modernization works. In absence of such an approach, the users will be affected by way of congestion and poor service levels. Further, the Authority has carried out a detailed discussion in terms of adopting Hybrid Till in the place of Single Till for tariff determination vide Order 14 /2016-17. For the sake of brevity, we have not reproduced the entire contents of the aforementioned Order and the same can be referred to, for inferring that Single Till is not a viable proposition if investments in airport infrastructure need to be enhanced, and the Authority needs to consider Hybrid Till to facilitate investments.*

BIAL notes IATA's submission stating that adoption of a 40% SRT for true up would constitute prefunding which would result in addition of capex which further gets included in the RAB leading to undue remuneration for the airport operator. We further refer to the Authority's Order No. 14 /2016-17 wherein Authority provided clear details for its approach for adopting of hybrid till and hence the above approach suggested in IATA's submission for applying Single Till is unwarranted.

Finally, BIAL does not support IATA's suggestion of reducing from the RAB the differential between the true up calculated based on Single Till and true up calculated using 40% SRT in order to safeguard users from paying twice for the same assets. BIAL submits that it is not correct to say that users will be paying twice and that users would have to pay only once for the aeronautical assets as per the Regulatory building block approach of the Authority for tariff determination. BIAL would like to reiterate its position on truing up for First Control Period and Pre–Control Period, as submitted in BIAL's response to the CP

BIAL wishes to submit that BIAL's Concession Agreement ('CA') has articles which indicate the adoption of Dual Till for tariff determination and hence, Single Till methodology cannot be adopted. The Concession Agreements of DIAL and Mumbai International Airport Limited ('MIAL'), which were awarded subsequent to BIAL had incorporated 30% SRT.

The Ministry of Civil Aviation ('The Ministry') has issued a policy direction (via letter dated 11.06.2015) in the case of Hyderabad International Airport Limited ('HIAL') under section 42(2) directing the Authority to consider 30% SRT. Given that both BIAL and HIAL airports have similar Concession Agreements and are structured similarly in terms of land lease agreement, viability gap funding, etc. BIAL has submitted in its response to the CP that BIAL should be allowed 30% SRT for First Control Period and Pre-Control Period in view of treatment provided for a similarly placed airport like HIAL. Cargo, Ground Handling and Fuel Farm ('CGF') as aeronautical revenue - IATA has stated that CGF should be treated as aeronautical revenue.

3) BIAL would like to reiterate its submission made in response to the CP that Schedule 6 of the CA contains a list of "Regulated Charges" and clause 10.3 of the CA states that BIAL shall be free to determine without any restrictions "Other Charges" for services not listed in Schedule 6 of the CA. In view of the above, CGF along with Information Communication Technology ('ICT') and Common

Infrastructure Charges ('CIC') activities and their corresponding revenues needs to be kept outside the tariff mechanism / purview and not to be considered as part of aeronautical revenues.

4) Further, the sanctity of Concession Agreements has also been upheld in the recent judgement of the TDSAT dated 23.04.2018 in the case of DIAL's tariff determination for the First Control Period (hereinafter referred to as 'TDSAT Order')..."

6.4.2 BIAL has agreed to the comments made by APAO.

6.5 BIAL's comments on Authority's analysis on True up of First Control Period

6.5.1 BIAL has submitted as follows:

"On Authority's proposal to consider 40% SRT for the purpose of true-up of Pre- Control Period and First Control Period.

BIAL's Response

Regulatory till prescribed under BIAL's CA: - BIAL's CA is a pioneering concession signed on PPP basis. Articles 10.2 and 10.3 of the CA indicate the adoption of Dual Till for tariff determination by mentioning the term "Airport Charges" which are to be regulated and "Other Charges" which BIAL would be free to fix. Despite the fact that CA proposed a Dual Till, the Authority has applied a shared till methodology for BIAL.

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The Ad-hoc UDF determined by the Ministry for BIAL for the period post Airport Opening Date was on the basis of cross subsidization of 30% from non-aeronautical revenue, though the CA did not provide for any cross subsidization from non-aeronautical revenue.

The Authority has based this proposal on the Ministry's letter dated 24.09.2013 to the Authority recommending adoption of 40% SRT in case of BIAL in view of the funds required for expansion of the airport. BIAL submits that a consideration of the above letter in its entirety discloses it to be clarificatory in nature. In other words, the letter cannot be considered as a direction by the Central Government under Section 42(2) of the AERA Act.

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Also, as the National Civil Aviation Policy-2016 (NCAP) envisages a uniform 30% SRT for all major airports (which is accepted by the Authority in Order No.14/2016-17), the supposed differences and *distinction in the major airports should not have any bearing on determination of till methodology. It is true that the NCAP is prospective. However what BIAL is submitting that the Ministry has taken a policy decision that the distinctions and differences in the major airports, if any, are not relevant for determination of till methodology. The direction for Hyderabad airport for first control period further entrenches this position. Therefore, the reasons mentioned in Clause 4.3.3. of the differences in the airports resulting in differential treatment for till methodology may not be correct and it is requested that a uniform approach be adopted. Therefore, BIAL submits that the Authority must treat BIAL on fair and non-discriminatory terms, and adopt 30% SRT for BIAL as well.*

Opinion from Former Chairperson AERAAT justifying adoption of 30% Shared Revenue Till:

Further, in an opinion sought from Justice Sirpurkar on the appropriate till mechanism to be adopted by the Authority for the First Control Period; he opined that considering the similarity between BIAL and HIAL with respect to their Concession Agreements, a policy directive in respect of HIAL should also be applied in the case of BIAL as well. An extract from his opinion has been reproduced below:

"4.4 MoCA has issued a policy directive dated 10.06.2015 that 30% SRT be applied in case of Rajiv Gandhi International Airport, Hyderabad ('Hyderabad airport or HIAL"). This policy directive has been referred to in Consultation Paper No.30/2017-18 issued in respect of the Hyderabad airport and AERA has proposed to undertake a true up exercise on the basis of 30% SRT for the first control period for Hyderabad airport. Although the policy directive is issued in respect of Hyderabad airport, considering the similarity of both airports and especially in view of the striking similarity in the Concession Agreements of the airports at Bengaluru and Hyderabad, the principle behind the policy directive issued in respect of Hyderabad airport should also be applied in respect of Bengaluru airport by AERA."

Further, Justice Sirpurkar referred to other private airports stating that the Authority may consider that other private airports including Mumbai, Delhi and Hyderabad have been regulated under the 30% SRT for the First Control Period and Bengaluru airport alone is being regulated under 40% SRT. Accordingly, by referring to object of creating a level playing field for the airports, Justice Sirpurkar has suggested to avoid a discriminatory treatment for BIAL stating as follows:

"...The statement of objects and reasons to the AERA Act set out the requirement of creating a level playing field amongst different categories of airports. One of the ways in which AERA can create a level playing field for all private major airports that are similarly situated, i.e. Delhi, Mumbai, Hyderabad and Bengaluru is to ensure that their tariff determination is undertaken on a similar methodology for the first control period as well."

***BIAL's Submission: -** Given the fact that all prior policy evidence points towards 30% SRT, the same needs to be applied in the case of BIAL as well. Accordingly, BIAL requests the Authority to adopt 30% SRT for true up of Pre-Control Period and First Control Period.*

6.6 Authority's examination of Stakeholders' comments on True up of First Control period

6.6.1 The Authority has carefully reviewed the comments made by BIAL and various stakeholders.

6.6.2 The Authority has also reviewed the comments made by IATA stating that Tariff determination should be done on a "Single Till" basis for the pre-control and first control period and IATA has also challenged application of "30% Hybrid Till" as the applicable regulatory framework.

6.6.3 The Authority notes that Agreement for HIAL is similar to that of BIAL and the Authority had considered a 30% Hybrid Till for HIAL for the First and Pre-Control Period at the time of issue of Consultation Paper for determination of Aeronautical Tariffs for the second control period, based on the directive received from MoCA.

6.6.4 The Authority notes that MoCA had only suggested a 40% Shared Till as part of the Stakeholder comments, with a purpose to augment the Revenues to make additional cash available for Airport Project. The differential estimated, in case of BIAL, between Single Till and 40% Shared Till was only Rs. 160 crores (as detailed in the Order for the First Control period) which would anyway not be sufficient for the Airport Project.

6.6.5 The Authority notes that after the issue of the First Control Period order of BIAL, MoCA has subsequently issued a directive to the Authority to adopt 30% Hybrid Till in case of HIAL. The Authority is of the view that when Delhi, Mumbai and Hyderabad airports which were developed on PPP model have been given a 30% Hybrid Till, it would be reasonable to extend the same Hybrid Till in the case of BIAL also.

6.6.6 The Authority, hence, considering similarity of Airports in terms of Concession Agreements and the directive issued by MoCA in the case of HIAL and with a view to place both the Airports on similar footing is of the view that the True up of the First Control Period for BIAL may be done considering a 30% Hybrid Till.

6.6.7 The Authority has decided to hence, compute shortfall/ over-recovery for the first control period considering the above and based on other changes made in this Order as elaborated below.

6.6.7.1 Considering Lease rentals used for core Aero activities as Aeronautical. Refer Para 4.5.22 above

6.6.7.2 Considering Utility recovery from Aero concessionaires as adjustment to Aero Revenues – Refer Para 13.6.10 below

6.6.7.3 Considering "Net investment" in subsidiary for the purpose of computation of FRoR – Refer Para 14.6.5 below

6.6.8 Based on the above, revised true-up of first control period is calculated by the Authority as under:

Table 8: Recomputed shortfall/ Over Recovery for the First Contol period for consideration in determination of ARR for the second control period (Rs. Crores)

Particulars (Rs. Crores)	2011-12	2012-13	2013-14	2014-15	2015-16	Total
Average RAB for calculating ARR	1,308.50	1,209.79	1,835.08	2,444.06	2,302.17	
Fair Rate of Return	10.97%	10.97%	10.97%	10.97%	10.97%	
Return on Assets	143.54	132.71	201.31	268.11	252.54	

Particulars (Rs. Crores)	2011-12	2012-13	2013-14	2014-15	2015-16	Total
Depreciation	115.11	118.72	126.12	187.20	180.45	
Opex	163.40	231.04	212.36	254.74	251.42	
IT reimbursement/ Working Capital	12.99	-0.96	6.65	11.92	54.61	
Total Gross ARR	435.04	481.51	546.44	721.97	739.02	
Less: Deductions for Non-Aero Revenues	-49.37	-50.71	-57.86	-69.62	-87.68	
Add: Concession Fee on Regulated	19.08	18.60	19.53	28.27	34.57	
Net ARR	404.75	449.41	508.11	680.62	685.91	
Aero Revenues	477.05	465.03	488.13	706.71	864.20	
(Under)/ Over Recovery	**-72.30**	**-15.62**	**19.98**	**-26.10**	**-178.28**	**272.32**
With carrying cost						**313.62**

Decision No. 3. Regarding True up of First Control period

3.a. Based on the material before it and its analysis, the Authority decides:

i. **To consider 30% cross subsidisation from Non-Aeronautical Revenues for determination of under / Over Recovery during the first control period.**

ii. **To consider the Over recovery as detailed in Table 8 Para 6.6.8 above for the purpose of computing ARR for the second control period.**

7 Traffic Projections

7.1 BIAL's submission & Authority's analysis on Passenger Traffic Projections

7.1.1 Passenger traffic at BIAL grew at a CAGR of 13.96% and 10.08% for FY 2008-09 to 2016-17 for domestic passengers and International Passengers respectively.

7.1.2 Trend of passenger traffic over the years was as below:

Table 9: Historical Trend in Passenger Traffic (Pax in Mn)

Category	2008-2009 -(312 days)	2008-2009 - (Full)	2009-10	2010-11	2011-12	2012-13	2013-14	2014-15	2015-16	2016-17	CAGR
Dom	5.80	6.78	7.99	9.36	10.33	9.49	10.23	12.47	15.61	19.28	13.96%
Intl	1.43	1.67	1.94	2.27	2.38	2.50	2.63	2.93	3.37	3.60	10.08%
Growth rate – Dom			17.78%	17.21%	10.38%	-8.14%	7.85%	21.83%	25.15%	23.56%	
Growth rate – Intl			15.99%	17.51%	4.60%	5.26%	5.19%	11.31%	14.78%	6.93%	

7.1.3 Considering the above trend, the projections submitted by BIAL for passenger traffic in the second control period was as follows:

Table 10: Projections of Passenger Traffic as per BIAL (Pax in Mn)

Projected Passenger Traffic as per BIAL	2016-17 (A)	2017-18	2018-19	2019-20	2020-21
Growth rate – Domestic Pax		9.78%	9.20%	8.98%	8.40%
Growth rate – International Pax		9.77%	9.20%	9.00%	8.50%
Domestic PAX	19.28	21.17	23.12	25.19	27.31
International PAX	3.60	3.95	4.31	4.70	5.10
Total PAX	22.88	25.12	27.43	29.90	32.41

7.1.4 BIAL had stated in its MYTP submission that:

"The traffic forecast is a critical component for tariff determination. The traffic forecast as prepared by L&B (report dated February 2013) was submitted as part of MYTP submissions for Control Period 1. However, over the last few years, the growth has been higher than was proposed by L&B Report. This was due to strong economic environment and introduction of new airlines. BIAL Management expects that this growth will stabilize over the long term and the same exponential growth may not be seen in Control Period 2.

Hence for Control Period 2, the traffic is estimated using the same forecast provided in the L&B Report of February 2013, on the base of current realized traffic.

The L&B Report provides annual forecasts of passenger traffic, air cargo tonnage, and aircraft movements for the 20 year period between 2009-10 and 2029-30. BIAL has used the growth rates as determined in the Base Case scenario to prepare its estimates."

7.1.5 The Authority had sought for clarification from BIAL on the actual passenger traffic for the period April 2017 – December 2017 and estimate for 2017-18 full year from BIAL. As per BIAL, the actual passenger for April 2017 – December 2017 was 19.42 Mn and BIAL expected to reach 26.14 Mn for the full year 2017-18, which was marginally higher by even the CAGR estimate.

7.1.6 The Authority noted that BIAL had depended on a survey conducted in the 2010 and updated in the year 2013 for the purpose of projecting the passenger traffic growth rates. These were not relevant any longer now, considering the huge increase in passenger traffic.

7.1.7 The Authority proposed to consider the CAGR as detailed in Para 7.1.2 above for the purpose of computing the traffic projections for the current control period, on the estimated traffic numbers as provided by BIAL for 2017-18. The Authority was aware that the current Terminal Building had limited capacity and BIAL was working on alternate plans to re-align space within the Terminal Building to facilitate greater passenger throughput. The Authority considered that BIAL would be able to find optimum solutions to manage the growing passenger traffic until the new Terminal was ready for use.

7.1.8 Accordingly, the reworked passenger traffic estimates as computed by the Authority were as follows:

Table 11: Recomputed Passenger Traffic Numbers by Authority for Second control period considered in Consultation Paper 05/2018-19 (Million)

Passenger Traffic estimates as per Authority	2016-17 Actuals	2017-18 Latest Estimates	2018-19 Projected	2019-20 Projected	2020-21 Projected
Growth rate – Domestic Pax			13.96%	13.96%	13.96%
Growth rate – International Pax			10.08%	10.08%	10.08%
Domestic PAX	19.28	22.37	25.49	29.05	33.11
International PAX	3.60	3.77	4.15	4.57	5.03
Total PAX	22.88	26.14	29.64	33.62	38.14

7.2 BIAL's submission on Air Traffic Movements (ATMs) and Authority's analysis

7.2.1 Domestic ATMs at BIAL increased from 87,826 in 2008-09 to 1,54,095 in 2016-17 while International ATMs at the airport increased from 14,355 movements in 2008-09 to 24,022 in 2016-17.

7.2.2 Trend of ATM traffic over the years was as shown below:

Table 12: Actual ATMs during the past years (Nos.)

ATM Trend - Past years	2008-2009 - (312 days)	2008-2009 - (Full)	2009-10	2010-11	2011-12	2012-13	2013-14	2014-15	2015-16	2016-17	CAGI
Dom Pax	73,032	85,438	87,932	92,223	99,041	84,993	97,428	1,11,504	1,29,393	1,52,035	7.47%
Intl Pax	11,348	13,276	13,056	15,376	15,761	15,660	16,498	17,964	19,490	20,707	5.71%
Dom Cargo	2,041	2,388	2,646	2,746	1,861	1,855	1,839	1,860	1,975	2,060	-1.83%
Intl. Cargo	923	1,080	1,019	1,442	2,370	2,680	2,810	2,881	2,973	3,315	15.05%
Growth rate – Dom Pax			2.92%	4.88%	7.39%	-14.18%	14.63%	14.45%	16.04%	17.50%	
Growth rate – Intl Pax			-1.65%	17.77%	2.50%	-0.64%	5.35%	8.89%	8.49%	6.24%	
Growth rate – Dom Cargo			10.82%	3.78%	-32.23%	-0.32%	-0.86%	1.14%	6.18%	4.30%	
Growth rate – Intl. Cargo			[illegible]	41.51%	64.36%	13.08%	4.85%	2.53%	3.19%	11.50%	

ATM Trend - Past years	2008-2009 - (312 days)	2008-2009 - (Full)	2009-10	2010-11	2011-12	2012-13	2013-14	2014-15	2015-16	2016-17	CAGI
Domestic Pax/ ATM	79.35	79.35	90.81	101.48	104.31	111.66	105.05	111.83	120.60	126.83	
International Pax/ ATM	125.72	125.72	148.28	147.95	150.98	159.94	159.70	163.26	172.71	173.83	

7.2.3 Based on the above trend, the growth rate and projected ATM numbers considered by BIAL was as follows:

Table 13 : Projections of ATM Traffic as per BIAL (Nos.)

Projected ATM Traffic as per BIAL	2016-17 (A)	2017-18	2018-19	2019-20	2020-21
Growth rate – Domestic Pax ATM	17.30%	10.45%	9.47%	9.23%	8.67%
Growth rate – International Pax ATM	6.94%	12.78%	8.40%	8.28%	8.52%
Domestic ATM	1,54,095	1,70,190	1,86,312	2,03,506	2,21,159
International ATM	24,022	27,092	29,367	31,800	34,507

7.2.4 The Authority noted that the CAGR for the period till 2016-17 indicated fluctuations in growth rates across different categories of ATM. The Authority had sought clarification from BIAL on the actual ATM traffic for the period April 2017 – December 2017 and estimate for 2017-18 full year from BIAL. As per BIAL, the ATM traffic estimate for Domestic PAX was 1,71,602, International PAX was 21,608, Domestic Cargo 1847 and International Cargo 3237 indicating a higher growth in Domestic PAX ATM and a de-growth in Cargo – both Domestic and International.

7.2.5 The Authority also noted the very high growth rate considered by BIAL in Cargo ATMs for the year 2017-18.

7.2.6 Considering the past trend of ATM growth, the Authority proposed to consider the estimated ATM numbers provided by BIAL for 2017-18 and then apply the growth percentages considered by BIAL.

7.2.7 Accordingly, the ATM numbers computed by the Authority were as given below:

Table 14: Projections of ATM Traffic as per Authority considered in Consultation Paper 05/2018-19 (Nos.)

Projected ATM Traffic as per Authority	2016-17 (A) Actual	2017-18 Latest Estimate	2018-19 Projection	2019-20 Projection	2020-21 Projection
Domestic ATM	1,54,095	1,73,449	1,91,045	2,08,675	2,26,778
International ATM	24,022	24,845	28,409	30,759	33,373

7.3 BIAL's submission on Cargo traffic and Authority's analysis

7.3.1 Air cargo traffic increased from around 154,856 Metric Tons (MT) in FY 2008-09 to 319,344 MT in FY 2016-17. Details of actual cargo handled over the years were as below:

Table 15: Past Cargo Traffic (MT)

Historic Cargo Traffic	2008-09 (312 days)	2008- 09 - (F)	2009-10	2010-11	2011-12	2012-13	2013-14	2014-15	2015-16	2016-17	CAGR
Dom Cargo	47,626	55,716	69,014	87,519	83,261	82,756	91,925	1,14,066	1,15,159	1,19,878	10.05%
Intl. Cargo	84,744	99,140	1,05,634	1,35,264	1,41,733	1,43,911	1,50,501	1,65,466	1,76,761	1,99,466	9.13%
Growth rate – Dom			23.87%	26.81%	-4.87%	-0.61%	11.08%	24.09%	0.96%	4.10%	
Growth rate – Intl			6.55%	28.05%	4.78%	1.54%	4.58%	9.94%	6.83%	12.85%	

7.3.2 BIAL had projected the following cargo numbers in its MYTP submissions:

Table 16: Cargo Estimates for the second control period as per BIAL (MT)

Cargo Traffic estimates as per BIAL	2016-17	2017-18	2018-19	2019-20	2020-21
Growth rate -- Domestic Cargo		9.91%	8.94%	8.28%	8.39%
Growth rate – International Cargo		9.60%	8.66%	8.06%	8.02%
Domestic Cargo	1,19,878	1,31,761	1,43,538	1,55,421	1,68,460
International Cargo	1,99,466	2,18,616	2,37,558	2,56,708	2,77,306
Total Cargo	3,19,344	3,50,376	3,81,096	4,12,128	4,45,767

7.3.3 The Authority had sought for clarification from BIAL on the actual cargo traffic for the period April 2017 – December 2017 and estimate for 2017-18 full year from BIAL. As per BIAL, the actual cargo for April 2017 – December 2017 was 261,040 MT and BIAL expected to reach 339,806 MT for the full year 2017-18, which is lower than the CAGR growth and lower than the growth rates projected earlier by BIAL.

7.3.4 The Authority hence proposed to consider actuals for 2016-17, BIAL estimates for 2017-18 and future cargo based on the growth rate projected by BIAL.

7.3.5 Accordingly, the projections for second control period computed by the Authority were as given below:

Table 17: Projected Cargo Traffic for second control period as per the Authority considered in Consultation Paper 05/2018-19 (MT)

Cargo Traffic estimates	2016-17	2017-18	2018-19	2019-20	2020-21
	Actuals	Latest Estimate	Projected	Projected	Projected
Growth rate – Domestic Cargo			8.94%	8.28%	8.39%
Growth rate – International Cargo			8.66%	8.06%	8.02%
Domestic Cargo	119,878	125,247	136,442	147,737	160,132
International Cargo	199,466	214,559	233,150	251,944	272,161
Total Cargo	319,344	339,806	369,592	399,682	432,293

7.3.6 To summarise, after analysis, the Authority proposed to consider the traffic estimates as below:

Table 18: Total Traffic Projection for Second Control Period as per Authority considered in Consultation Paper 05/2018-19

Traffic Projections as per Authority	UOM	2016-17	2017-18	2018-19	2019-20	2020-21
Domestic PAX	Mn	19.28	22.37	25.49	29.05	33.11
International PAX	Mn	3.60	3.77	4.15	4.57	5.03
Total PAX	**Mn**	**22.88**	**26.14**	**29.64**	**33.62**	**38.14**
Domestic ATM	Nos	1,54,095	1,73,449	1,91,045	2,08,675	2,26,778
International ATM	Nos	24,022	24,845	28,409	30,759	33,373
Total ATM	**Nos**	**1,78,117**	**1,98,294**	**2,19,453**	**2,39,434**	**2,60,151**
Domestic cargo	MT	1,19,878	1,25,247	1,36,442	1,47,737	1,60,132
Domestic cargo	MT	1,99,466	2,14,559	2,33,150	2,51,944	2,72,161
Total cargo	**MT**	**3,19,344**	**3,39,806**	**3,69,592**	**3,99,682**	**4,32,293**

7.3.7 The Authority also noted that the actual traffic at BIAL may depend on changes in economic and other conditions and due to the restrictions on space. In view of this, the Authority proposed to true up the traffic projections for the current control period based on actuals at the time of tariff determination for the next control period.

7.4 Stakeholders' comments on Authority's analysis of Traffic Projections

7.4.1 IATA has stated the following:

"...Traffic Projections: - It is advisable that any forecasts are validated by an independent entity with the required capability on a regular basis, especially given the high rates of growth, including capacity assessments to identify the demand triggers, pace and scale of investment as part of a broader master plan and phasing strategy...."

7.4.2 B.PAC has stated the following:

"...KIAL's capital utilisation focus has been on increasing flights, not capacity: - On August 16, 2017 KIAL completed the expansion of the existing terminal to support the immediate growth in passenger traffic, which included two new Rapid Exit Taxiways that increased runway capacity. With the addition of the two RETs, the Air Traffic Movements (ATM) per hour capacity immediately increased from 34 ATMs per hour to 38 ATMs per hour and will progressively increase to 44 ATMs per hour.

This increase will be in addition to KIAL's already substantial deviation from the ATM projections made in 2014"

"We request AERA to direct KIAL to undertake a passenger survey for each control period with annual figures. A third party should conduct this survey and the results of the same should be made available to public. As you are aware, the KIAL's projections made by far are based on a survey conducted in 2010, however actuals have been in vast variation with the projected embarking passengers. Since the current control period began in 2016, we request AERA to direct KIAL to furnish the actual passenger numbers and the air traffic for the FY 2016-17 and FY 2017-18 and undertake a survey in this financial year to project the passenger numbers for the remaining three years in the current control period.

It is also to be noted that, in the AERA's final order under Decision No. 8, for Traffic Forecast states, The Authority decided "To true up the traffic volume based on actual growth during the current Control Period (2011-2016) while determining aeronautical tariffs for the next control period."

"We would like to reiterate that KIAL has been operating with unchanged tariffs even after the completion of the first control period (2011-2016). AERA has been passing interim orders allowing KIAL to continue to levy the tariffs existing as on 31st March, 2016 for the past 25 months into the Second Control period (FY 2016-17 to FY 2020-21) which were based on air traffic projections made in 2010. This has led to a huge accumulation of additional revenue through UDF.

We request AERA to direct KIAL to make it mandatory for KIAL to undertake a passenger survey by a credible third party for each control period with annual figures for five years and publish the same before the beginning of each control period.

As you are aware, the KIAL's projections made are based on a survey conducted in 2010, however, actual passenger traffic have been in vast variation with the projected embarking passengers. While we welcome the expansion plans, the projections based on 2010 survey does not reflect the reality. The regulator should push the operators to make more realistic projections and AERA should penalize KIAL if there is a significant difference observed in the projected as against the actual passenger traffic since consumers are the ones getting penalized for such forecast inaccuracy. This will bring more seriousness in making the projections and tariff determination.

KIAL in its submission to AERA has stated that by FY 2021, the airport can handle approximately 40 mmpa. KIAL should have foreseen this growth in number and should have designed the operations to cater to the requirements of the passengers. In addition, AERA should release prior to the beginning of each control period Consultation Papers with the projected passenger numbers and catalyze early development infrastructure for handling the passengers. This is a crying need at Bengaluru airport now and our investments have always been way behind traffic growth leading to heavy congestion and inconvenience to passengers.

The passenger traffic for the first control period should be trued up, and KIAL should release the actual passenger numbers for the two financial years of the second control period. These numbers should be used to extrapolate the projections for the remaining period of the second control period. The UDF calculations thus arrived should be made public.

We further request you to immediately initiate the study for traffic projections for the balance three years of the second control period and make suitable adjustments in the tariff for the remaining two years in the control period, once the results are available.

Comparing the projected and actual passenger traffic data at KIAL since 2013-14 to 2016-17. The projected numbers of embarking passengers have been lower than the actual across all the financial years..."

7.4.3 Consumer Care Society (CCS) has stated the following:

"...A detailed market survey needed to forecast the actual footfalls, user's and customers. This is a critical input on the tariffs. In fact, the actual footfalls have exceeded the earlier projections. However, there has no corresponding reduction in tariffs simultaneously..."

7.4.4 Sanjeev V Dyamannavar has stated the following:

*"...**Passenger Traffic Growth:** Going by the increasing traffic numbers during last 8 years, FY 2018-19 numbers are likely to be even higher and it would completely wrong calculations on the part of AERA in determining UDF requirement. In view of this, AERA should reconsider passenger volume and Cargo, re-arrive at UDF requirement for 2nd Control period..."*

7.5 BIAL's response to Stakeholders' comments on Authority's analysis of Traffic Projections

7.5.1 On IATA's comments, BIAL has submitted as follows:

"...IATA mentions that it is advisable to get the traffic forecasts validated by an independent entity with the required capability on a regular basis especially given the high rates of growth, including capacity assessments to identify the demand triggers, pace and scale of investment as part of a broader master plan and phasing strategy.

In the CP the Authority has acknowledged the growth in traffic, capacity constrains at KIAB and initiatives taken by BIAL to facilitate greater passenger throughput. The Authority has proposed a higher traffic growth than proposed by BIAL. Also, BIAL has proposed true up of traffic based on actuals in the Third Control Period. In view of this, BIAL submits that the concern raised by IATA in their letter has been addressed by the Authority in the CP.

IATA has commented that development should not be pre-determined by dates but by demand. Further, IATA has also recommended balanced capacity over time, which is common industry best practice. And, they have observed that BIAL's intent in terms of future expansion appears to be contrary to the industry best practices.

However, IATA in the subsequent paragraph acknowledges that BIAL's assessment of a phased approach to terminal development based on demand triggers is an accepted approach.

BIAL submits that expansions projects require time for planning and implementation, hence investment plans need to be forward looking and designed to cater to a traffic which would be achieved in future. Therefore, while BIAL considers appropriate demand triggers to initiate investment planning, it also needs to pre-determine projects completion dates to ensure adequate capacity on a future date. Further, BIAL internally assesses the growth requirements and engages with multiple stakeholders to assess the capacity requirements before undertaking the expansion plans. An incremental increase in capacity or a modular approach as proposed by BIAL will lead to optimisation of cost, and hence all future plans of development considers a modular approach to capacity investment as a pre-requisite..."

7.5.2 On comment made by B.PAC, BIAL has stated as follows:

"...BIAL notes B.PAC's comment on the Authority mandating a passenger survey conducted for each control period with projections for each of the five years by a credible third party. This is to be published before the beginning of each control period. B.PAC has further requested the Authority to penalize BIAL for any significant variation between the projected traffic volumes vis-à-vis the actual passenger traffic.

In response, BIAL would like to submit that the Traffic Study submitted by BIAL dated February 2013 provides annual forecasts of passenger traffic, air cargo tonnage, and aircraft movements for a 20-year time horizon between 2009-10 and 2029-30, which covered the duration of the Second Control Period.

BIAL would like to highlight that the unprecedented growth in traffic in the last few years was because of a combination of several factors including strong economic growth, reduced ATF prices, introduction of new airlines, competitive airfares, among others. Further, BIAL had submitted as part of tariff proposal for the true up of traffic impact, which has been considered by the Authority in the CP.

On B.PAC's comment of BIAL having foreseen the traffic growth trends and designed operations accordingly, BIAL would like to submit that investments for airport capacity expansion and modernization based on traffic forecast is not a one-off exercise. Especially, in a rapidly evolving aviation market like India, it is very less likely to predict traffic volumes with accuracy. Therefore, it makes more sense to undertake this exercise at regular intervals so that capital investments can be planned in response to the demand trends. In fact, BIAL would like to highlight that it has been proactive in modifying its Capex plans based on any demand changes it envisages. A case in point is the revision in BIAL's airport expansion plan, wherein it has undertaken an upward revision of capacity addition from 20 MPPA for Terminal 2 Phase 1 to 25 MPPA. This will result in KIAB's total capacity going up to 45 MPPA in FY 2021 when T2 becomes operational.

B.PAC has urged the Authority to bring in transparency in the calculation of UDF by placing the formula to calculate UDF in the public domain. It has further suggested that the passenger traffic for the First Control Period be trued up. Also, it has recommended that BIAL should release the actual passenger numbers for the two financial years of the Second Control Period, which should be used to extrapolate the projections for the remaining years of the Second Control Period.

BIAL would like to submit that the Authority computes the ARR allowable to an airport operator based on the regulatory approach. The UDF and other aeronautical charges like Landing, Parking and Housing charges are resulting out of the ARR.

Also, BIAL would like to point that it had proposed true up of traffic impact both for the First and Second Control Period, which the Authority has taken into consideration in the CP. The Authority has already taken cognizance of the traffic growth while arriving at the estimates in the CP.

B.PAC has suggested to immediately initiate a study for projecting traffic for the balance years of the Second Control Period and accordingly, make suitable adjustments in the tariff for the remaining period, once the results are available.

In its MTYTP, BIAL has submitted traffic estimates after considering various traffic driving factors. The Authority has revised the traffic estimates after reviewing BIAL's MYTP submission. In addition, BIAL has requested for true up of traffic in its MYTP and the Authority has also proposed to true up any under/over recoveries on account of traffic during the tariff determination of the Third Control Period..."

7.5.3 On comments made by Sanjeev V Dyamannavar, BIAL has stated that:

"...Respondent has requested the Authority to reconsider the historical growth in passenger and cargo volumes to arrive at the UDF requirement for Second Control period. The Authority has considered the historical growth of BIAL to arrive at traffic projection and the same is detailed out in the CP. The projected traffic is considered for arriving at YPP and further tariffs like UDF..."

7.5.4 On comments made by CCS, BIAL has stated that:

"...BIAL is unclear on CCS's submission as there is incoherence between the linkage of property development and lounge and flight catering.

CCS has suggested that a detailed market survey is required to forecast the "actual footfalls, user's and customers" as these are critical inputs for determination of tariffs. CCS further highlighted that actual footfalls have exceeded earlier projections without any corresponding reduction in tariffs.

BIAL submits that it has undertaken traffic survey by a renowned expert agency and the same was submitted to the Authority as part of its MYTP. Further, the true up process as prescribed by the Authority and as requested by BIAL will address the excess / shortfall of revenues while determining tariffs for the next control period.

BIAL has proposed for true up of traffic for second control period as part of its MYTP submission and Authority has also proposed the same in the CP...."

7.6 BIAL's comments on Authority's analysis on Traffic Projections

7.6.1 BIAL has submitted as follows:

"...BIAL's Submission *- BIAL as an airport has been growing at a significant rate over the past few years. BIAL has an ambitious pipeline of capital projects, which need to be executed if the airport is to handle its projected passenger volumes.*

BIAL is agreeable to the Authority's decision to true-up the actual traffic handled at the airport for the Second Control Period at the time of tariff determination for the Third Control Period. However, as mentioned above, BIAL's ability to handle such increase in traffic will be significantly dependent upon sufficient cash flows being available to BIAL to undertake necessary capital investment and expansion of the airport facilities.

Further, in case of events such as economic downturns, increase in fuel prices, among others there is likelihood of traffic projections not getting materialized. In such a scenario the revenue accruing to BIAL may get hit significantly. Accordingly, we request Authority to allow BIAL to again approach the Authority during the Second Control Period in the above scenario...."

7.7 Authority's examination of Stakeholders' comments on Traffic Projections

7.7.1 The Authority has carefully reviewed the comments from various stakeholders and BIAL. The Authority has noted that certain stakeholders have sought independent traffic study for every control period.

7.7.2 The Authority, in the Consultation Paper has elaborated that the passenger traffic has witnessed unprecedented growths in the past 2-3 years and the Authority had accordingly considered the past experience – CAGR, in estimating the growth rate for future traffic estimation instead of basing the same on BIAL's estimate based on a study conducted in 2013. The Authority notes that this is also subject to variation and change.

7.7.3 The Authority has reviewed the traffic growth trends between April 2018 to June 2018 and noted the details of traffic (as taken from AAI website as follows).

Table 19: Traffic Trend for April 2018 - June 2018 (From AAI website)

Particulars	Units	April 18 - June 18
Domestic PAX	Mn	6.94
International PAX	Mn	1.09
Total PAX	**Mn**	**8.03**
Domestic ATM	Nos	50,882
International ATM	Nos	6,999
Total ATM	**Nos**	**57,881**
Domestic cargo	MT	35,222
International Cargo	MT	62,348
Total cargo	**MT**	**97,570**

7.7.4 The Authority notes that passenger and ATM traffic has grown by over 20%. While the traffic trends cannot be expected to continue at the same rate and this cannot be considered as an estimate for the balance period and is expected to moderate considering the increase in fuel prices, depreciation in Rupee etc. the Authority decides to consider actual traffic for the year 2017-18 and revise the growth rates for future as follows:

7.7.4.1 Consider Domestic Passenger growth rate at 15%

7.7.4.2 Consider International Passenger growth rate at 12%

7.7.4.3 Considering Domestic ATM growth rate at 12%

7.7.4.4 Other growth rates considered same as in Consultation Paper.

7.7.5 The Authority notes that these traffic growth rates could change based on various factors including economic environment, fuel prices etc. and has hence provided for true-up of these values at the end of current control period based on actuals.

7.7.6 Re-estimated Traffic information as decided to be considered by the Authority is as given below:

Table 20: Traffic Projections recomputed by the Authority for MYTP for second control period

Traffic Projections	UOM	2016-17	2017-18	2018-19	2019-20	2020-21
Domestic PAX	Mn	19.28	23.10	26.57	30.55	35.13
International PAX	Mn	3.60	3.81	4.27	4.78	5.35
Total PAX	**Mn**	**22.88**	**26.91**	**30.83**	**35.33**	**40.48**
Domestic ATM	Nos	1,54,095	1,72,665	1,94,521	2,17,780	2,43,842
International ATM	Nos	24,022	24,665	28,567	31,050	33,846

Total ATM	**Nos**	**1,78,117**	**1,97,330**	**2,23,088**	**2,48,830**	**2,77,689**
Domestic cargo	MT	1,19,878	1,28,504	1,39,990	1,51,579	1,64,296
International Cargo	MT	1,99,466	2,19,899	2,38,953	2,58,215	2,78,934
Total cargo	**MT**	**3,19,344**	**3,48,403**	**3,78,943**	**4,09,794**	**4,43,231**

7.7.7 The Authority notes BIAL's request to approach the Authority during the second control period in case of an adverse scenario. The Authority notes that there could certainly be some fluctuations in the traffic between estimates and actuals. Should there be significant variation, the Authority notes that BIAL can approach the Authority for suitable consideration in traffic, which the Authority may evaluate.

Decision No. 4. Regarding Traffic projections

4.a. Based on the material before it and its analysis, the Authority decides:

- **i. To consider traffic projections as detailed in Table 20 Para 7.7.6 above for determination of tariff for the second control period.**
- **ii. To true up the traffic of the second control period based on actuals, at the time of determination of tariff for the next control period.**

8 Allocation of Assets between Aeronautical and Non Aeronautical Services

8.1 BIAL's submission on Asset Allocation

8.1.1 **Allocation basis submitted by BIAL for Assets: -** BIAL had submitted basis of allocation of Assets – for existing assets and new assets as follows:

> *"The Allocation of Assets into Aeronautical and Non-Aeronautical for Control Period 2 has been considered based on the certificate given by the Statutory Auditor.*
> *The certificate of the auditors has been attached in Annexure 5.*
> *The details of the allocation have been provided below….."*

8.1.2 BIAL had submitted that according to the computation and certification, the average of 5 years from 2012 to 2016 works out to 90.71% and 9.29% between Aeronautical and Non-Aeronautical accordingly.

8.1.3 BIAL had accordingly considered 91% of the Opening RAB as towards Aeronautical Services and 9% as Non-Aeronautical.

8.1.4 On additions to RAB due to projects proposed during the second control period, BIAL had allocated 100% as relating Aeronautical for Airside works and for other works 91% of the value had been considered to be Aeronautical. Asset wise listing of Aeronautical % considered by BIAL is listed in Para 9.1.7 below.

8.2 Authority's analysis of asset allocation between Aeronautical and Non-Aeronautical services detailed in Consultation Paper

8.2.1 The Authority had carefully reviewed the submission and allocation made by BIAL between Aeronautical and Non-Aeronautical assets.

8.2.2 Authority had also carefully reviewed the certificate given by Statutory Auditor as detailed by BIAL.

8.2.3 The Authority noted that according to BIAL's submission, BIAL had appointed KPMG as its auditors for Asset allocation. Perusal of KPMG's opinion indicates that it is a *"Report in connection with Agreed-upon procedures related to the Statement of allocation of fixed assets into Aeronautical and Non-Aeronautical"*.

8.2.4 However, KPMG had also indicated that its report that:

> *"…Because the procedures performed do not constitute either an audit or a review made in accordance with the generally accepted auditing standards in India, we do not express any assurance on the allocation of the fixed assets between Aeronautical and Non-Aeronautical as on 31 March 2012, 31 March 2013, 31 March 2014, 31 March 2015 and 31 December 2015…"*
> *"..Had we performed additional procedures, an audit or a review in relation to the basis of allocation of fixed assets between Aeronautical and Non-Aeronautical, other matters might have come to our attention that would have been reported to you…."*

8.2.5 Scope of auditors as specified in their certificate of "Agreed Upon Procedures" is reproduced below.

"...The agreed upon procedures to be performed on the Statement of allocation of fixed assets into Aeronautical and Non-Aeronautical for the years ended 31st March 2012, 31st March 2013, 31st March 2014, 31st March 2015 and period 31 December 2015 are as below:

- *Trace the total value of fixed assets i.e. Gross block, Additions, deletions, accumulated depreciation and net book value as per the statement with the audited financial statements for the years ended 31 March 2012, 31 March 2013, 31 March 2014 and 31 March 2015 and unaudited trial balance as at 31 December 2015;*
- *Read the basis of allocation ("Annexure 3") which details the guidelines followed by the company for the allocation of fixed assets into Aeronautical and Non-Aeronautical;*
- *Verify the items of fixed assets as at 31 March 2012, 31 March 2013, 31 March 2014 and 31 March 2015 and unaudited trial balance as at 31 December 2015 on a test check basis and using the concept of Materiality for the allocation into Aeronautical and Non-Aeronautical on the basis of guidelines as enumerated in Annexure 3;*
- *For common assets, verify the basis of allocation and compare the same with the basis of allocation as enumerated in the guidelines enumerated in Annexure 3; and*
- *Report the factual findings and the observations, if any based on the procedures performed..."*

8.2.6 The Authority understood that this was a standard paragraph to indicate that the auditor had not performed an Independent audit on the stated subject.

8.2.7 The Authority had also gone through the report of the auditors on segregation of assets and noted that the auditors appeared to have carried out a check of the principles / methodology already established by BIAL for asset allocation and had only validated the same with the financials and not carried out any independent study to classify the assets between Aeronautical and Non-Aeronautical Services.

8.2.8 The Authority had gone through Annexure – 3 of the said certificate and noted that BIAL had listed a set of activities as "Aeronautical services" and another set of activities as "Non-Aeronautical services". The Annexure also listed common assets as those relating to plant and equipments which were not directly attributable to Aeronautical or Non-Aeronautical services and Terminal and other buildings. The Key used for bifurcation of common assets is Terminal Area which is 89% Aeronautical till March 2013 and 86% Aeronautical from March 2014 due to Terminal Expansion.

8.2.9 The Authority referred to the review carried out by the Authority (Refer Para 8.17 to 8.26 of MYTO-CP1) wherein the Authority had reviewed the submissions made by BIAL relating to Opening RAB and arrived at an allocation of 88.52% as Aeronautical in Opening RAB as of 1st April 2011 and 87.70% as Aeronautical in Terminal Area Expansion works commissioned in 2013-14.

8.2.10 The Authority noted that the Terminal Area usage, specifically in case of BIAL, had been modified over the period in order to create facilities to accommodate the substantial increase in Passenger traffic. Hence the Aeronautical Ratio in Terminal Building area cannot be kept as a static number.

8.2.11 The Authority hence, proposed to consider the allocation between Aeronautical Area and Non-Aeronautical Area of Opening RAB as per Authority's analysis detailed in MYTO-1, considering 88.52% of Opening RAB and Aeronautical and 87.70% of Terminal Area Expansion works as Aeronautical. (Refer Para 8.17 to 8.26 of MYTO for the First Control period).

8.2.12 The Authority had also proposed that the Authority would review the Terminal Area allocation for Terminal 1 and Terminal 2 once the Terminals reached a steady state usage.

8.2.13 As for additions to RAB due to Capital Expenditure in the current control period, the Authority had asked BIAL to submit details of the planned space in Terminal 2 segregated as Aeronautical Non-Aeronautical and Common Areas. BIAL has submitted that *"The Terminal 2 - Phase 1 plan is under design stage and detailed outlay is not available."*

8.2.14 The Authority noted that BIAL had considered asset allocation as 100% Aero for Airside works and as 91% in case of Terminal 2, Forecourts and other landside development works. The Authority noted that the allocation would largely depend on Terminal Building Area allocation between Aeronautical and Non-Aeronautical (which by BIAL's own estimate was 89% and 86% originally and after Terminal 1 expansion). Hence, in the absence of details, the Authority proposed that for New Terminal Building works, the Authority would consider an approximate allocation of 85% as Aeronautical and 15% as Non-Aeronautical. This would be reviewed once Terminal 2-Phase 1 is operational.

8.2.15 The Authority noted that actual asset costs could change from the projections made herein, based on which the allocation of costs between Aeronautical and Non-Aeronautical is also likely to change. Authority also noted that the allocation of assets depends on various factors including the value of Capital Expenditure, year of capitalization, actual usage of area etc. The Authority hence proposed to consider the above for the purpose of computation of ARR now and true up the same at the end of the second control period based on actuals.

8.2.16 The Authority also noted that area segregation done between Aeronautical usage and Non-Aeronautical usage of Terminal building needed to be technically validated and confirmed.

8.3 Stakeholders' comments on Authority's analysis of Assets allocation between Aeronautical and Non-Aeronautical Services

8.3.1 Consumer Care Society (CCS) has stated the following:

> *"...To reconsider allocation of fixed assets between aeronautical and non-aeronautical since KPMG is not happy with the auditing standards. It is important that BIAL reconsiders the assets prior to finalising tariffs...."*

8.3.2 IATA has stated the following on Allocation of Assets (Aeronautical and Non-Aeronautical)

"....We note that AERA is proposing to adopt an 85% allocation of terminal assets to the aeronautical area as opposed to 91% put forward by BIAL. While we agree that adjustment goes in the right direction, we still believe that the percentage allocated to aviation is too high. As mentioned in previous submissions, there needs to be a review on the methodology for allocating common assets at airports. Hence IATA supports the review proposed by AERA once Terminal 2-Phase 1 is operationa...l"

8.4 BIAL's response to Stakeholders' comments on Authority's analysis of Asset allocation between Aeronautical and Non-Aeronautical Services

8.4.1 BIAL has responded to IATA's comments as below:

"...IATA has commented that even 85% of the terminal being allotted to aeronautical (as has been done by the Authority) is on the higher side and there needs to be a review on the methodology for allocating common assets at airports.

BIAL has completed the detailed design of the upcoming T2 Terminal and complete details in terms of various facilities including aero and non-aeronautical facilities are being provided to the Authority. BIAL requests the Authority to refer to BIAL's response on the appropriate asset allocation ratio to be applied to its terminal-T2, in BIAL's response to the CP. Based on the above submission, BIAL requests the Authority to apply an asset allocation ratio of 88%:12% between aeronautical and non-aeronautical assets for Terminal 2...."

8.4.2 On CCS comments, BIAL has responded as follows:

"....BIAL notes CCS's request to the Authority seeking reconsideration of allocation of fixed assets as KPMG is "not happy with the auditing standards".

BIAL would like to clarify that KPMG has not expressed dissatisfaction with the auditing standards of BIAL. On the contrary, while providing BIAL with an auditor's report on asset allocation ratio, KPMG has given the context of their own engagement stating that their report is based on "agreed-upon procedures" and relates to "Statement of allocation of fixed assets". KPMG has only clarified that their report does not constitute either an audit or a review made in accordance with the generally accepted auditing standards in India. This does not mean that BIAL's fixed assets as per financial statements, which are allocated based on the asset allocation ratio reported by KPMG have not been accounted for as per the auditing standards..."

8.5 BIAL's Comments on Authority's analysis on assets allocation between Aeronautical and Non-Aeronautical Services

8.5.1 BIAL has submitted as follows:

"....On Authority's proposal on Asset Allocation for Terminal T2 AERA's Treatment As per the CP, the Authority has stated as below with respect to the asset allocation for Terminal T2:

.....

BIAL's Response: *Without prejudice to the above, BIAL is in the process of constructing a new terminal building to handle the projected increase in traffic at the airport. The terminal will be operationalized by March 2021 and based on bifurcation of aeronautical, non-aeronautical and common areas in Terminal T2 design, BIAL has calculated the asset allocation of terminal T2 for Phase 1 as 88%:12% (Refer Annexure 4). BIAL shall share the detailed designs of Terminal T2 separately with the Authority. Accordingly, BIAL would request the Authority to consider the asset allocation ratio of 88%:12% till a study to ascertain the same has been completed. In case, of any differences in the asset allocation ratios between the study and the current asset allocation put forth by BIAL, the Authority has recourse in terms of true-up of tariff for the Third Control Period.*

BIAL's Submission

BIAL requests the Authority to consider the asset allocation ratio of 88%:12% between aeronautical and non-aeronautical assets for Terminal 2.

As per the CP, the Authority has stated as below with respect to the asset allocation: "3.3.6 The Authority had, in Para 8.24 of MYTO-CP1, detailed the Asset Allocation Ratio proposed to be considered for determination of Tariff for the First Control period. (88.52% Aero as against 91% proposed by BIAL). The Authority proposes to consider the same for the Pre-control period. (Refer Authority's analysis on Asset allocation ratio in Para 7 below)."

BIAL's Response: *- No rational or scientific basis has been mentioned for considering the opening Asset Allocation Ratio of the First Control Period for the Second Control Period.*

The Authority has allocated BIAL's initial RAB based on the asset allocation ratio proposed in the Authority's Order No. 08/2014-15 with respect to the tariff determination for KIAB for the First Control Period. BIAL would like to submit that considering the aforementioned allocation ratio would not be appropriate when BIAL's statutory auditors have scientifically computed the asset allocation between aeronautical and non-aeronautical assets (apart from common use or dual use assets) as around 91%:9% respectively and presented the allocation in the form of an auditor's certificate.

BIAL's Submission: *- BIAL requests the Authority to consider the asset allocation ratio of 91%:9% as presented in the Auditor's certificate submitted by BIAL till a study to ascertain the same has been completed.*

On Authority's proposal to Carry out a technical study on the area used between Aeronautical and Non-Aeronautical in the existing and new terminal once the operations are commissioned and stabilised and True up the details considered in Paras 7.2.11 and 7.2.13 of the CP on the actuals and consider the same in the next control period.

BIAL's Submission: *- BIAL has noted the Authority's proposal to carry out a technical study on the area used between Aeronautical and Non-Aeronautical in the existing and new terminal once the operations are commissioned and stabilised. While we appreciate the proposal of the Authority to* *conduct a study, BIAL reserves its right to respond to the outcomes of the study and provide its inputs to the study. Further, till the time such study is completed, BIAL requests that the allocation ratio as per BIAL submissions above is considered.*

8.6 Authority's examination of Stakeholders' comments on Allocation of assets between Aero and Non-Aeronautical services

8.6.1 The Authority has carefully reviewed comments provided by BIAL and stakeholders.

8.6.2 The Authority notes BIAL's comments and submission on the Terminal-2 Area allocation plan. The Authority had earlier considered the allocation of 85% towards Aeronautical Area in new Terminal 2 as BIAL had not firmed up its plans for Terminal area allocation then. Based on the submission made by BIAL, the Authority decides to consider the allocation of 88% towards Aeronautical area for Terminal 2.

8.6.3 The Authority notes BIAL's comments that no basis was provided for considering the allocation as considered in the First Control Period. The Authority notes that detailed reasons and basis was provided by the Authority for computing the allocation ratio between Aeronautical and Non-Aeronautical Assets which is given in Para 8.2.11 above.

8.6.4 The Authority had also included a proposal to carry out study of allocation of area between Aeronautical and Non-Aeronautical area and consider the same appropriately at the time of true up of ARR for the second control period.

Decision No. 5. Regarding Asset allocation between Aeronautical and Non-Aeronautical services

5.a. Based on the material before it and its analysis, the Authority decides:

i. To consider allocation of assets and between Aeronautical and Non-Aeronautical services as detailed in 8.2.11 above and 8.6.2 above for determination of tariff for the second control period.

ii. To carry out a technical study on the area used between Aeronautical and Non-Aeronautical in the existing and new terminal once the operations are commissioned and stabilised and result of the study will be used to true up during next control period.

9 Review of Capital Expenditure

9.1 BIAL's submissions on Capital Expenditure during Second Control Period

9.1.1 Additions to Capital Expenditure as considered in MYTO-CP1 and actual Capital Expenditure as submitted by BIAL was as given below:

Table 21: Additions to RAB as considered by Authority in MYTO-CP1 (Rs. Crores)

Project	Date of Capitalisation	Basic Cost and charges	Financing allowance - Projects	Total Cost to be added to RAB
Apron Expansion	01-Feb-14	121.15	23.12	144.27
Terminal 1 Expansion	01-Feb-14	1,342.30	168.63	1,510.94
Other Projects i.e. Miscellaneous	01-Feb-14	16.39		16.39
Terminal 1 Expansion - Additional	01-Mar-15	80.22		80.22
Other Projects	01-Mar-15	98.32		98.32
Expansion Projects Capitalised (A)				1,850.13
Maintenance Capex Projects	31st March 2012	15.43		15.43
	31st March 2013	22.52		22.52
	31st March 2014	0.00		0.00
	31st March 2015	264.50		264.50
	31st March 2016	61.66		61.66
Maintenance Capital Expenditure (B)				364.11
Total Capitalisation				2,214.24
Maintenance capital expenditure for 2011-12 and 2012-13 given net of disposals				

9.1.2 As against the above, actual amounts added to RAB for the period was as follows:

Table 22: Comparison of Additions to RAB - As considered in MYTO-CP1 and actuals (Rs. Crores)

Particulars	2011-12	2012-13	2013-14	2014-15	2015-16	Total
Addition as per MYTO-CP1	15.43	22.52	1,671.60	443.04	61.66	2,214.25
Actuals as per BIAL Submissions	15.36	23.84	1,637.49	60.21	30.07	1,766.97
Difference (unspent mainly from Maintenance Capex)	0.07	-1.32	34.11	382.83	31.59	447.28

9.1.3 BIAL had stated the following as key reasons for difference between Projections and actuals:

"...The amount capitalized for Apron Extension and Terminal 1 is in line with the projections.

Others includes various works towards Terminal refurbishment & Forecourt expansion, maintenance capital expenditure, minor projects and sustaining capital expenditure. The major difference in other projects is due to deferment of various works to FY 2017 and FY 2018.

Apart from the items discussed above, BIAL could not undertake major expansion projects due to shortage of funds..."

9.1.4 BIAL had projected for a large-scale Capital Expenditure and commissioning of assets in Second Control Period. Further to the MYTP submissions in March 2016, BIAL had updated the business plan considering increase in capacity plan for first Phase of Terminal II Project from 20 mppa to 25 mppa.

9.1.5 BIAL had submitted as follows.

".....Brief details of key projects under execution in Control Period 2

Airfield Development (South Runway (Runway 2) and Associated Works)

The total passenger traffic is expected to reach 35 mn between FY 2020-21 and FY2021-22. In addition, the Cargo traffic is expected to reach 445,850 MT in FY 2020-21, which is more than three times the original traffic of the Airport in 2009. This expected traffic shows that there is an urgent need to increase capacity and hence Runway 2 and Associated Works are required.

Prior to starting the work on the Airfield Development, BIAL would undertake activities such as levelling, landfills, any excavation and land drainage among others. The site preparation work has begun in FY 2017 and is planned for completion by FY 2017-18. The works for Runway 2 are expected to be completed by FY 2019-20.

The new Terminal and Airfield Development will also require development of adjoining areas that facilitate access to the terminal and surrounding retail outlets for the ease and comfort of the passengers. These are separate projects such as Forecourt, roadways and landside development subsequent to Terminal 2 and Airfield Development and other projects.

Terminal & Associated Landside and Airside Development

Terminal 2 development was initially planned in two phases

Phase 1 with a capacity of 20 mppa

Phase 2 with a capacity of 25 mppa

Phase 1 of Terminal 2 is planned for completion in February 2021, which means that the combined capacity of Terminal 1 and Terminal 2 will be 40 mppa by February 2021.

However due to strong traffic growth at BIAL (on the basis of historical growth), it is expected that the annual traffic will be between 32 mppa to 36 mppa (i.e. 80% to 90% of the combined terminal capacity) by FY 2022. This scenario will result in:

A. inability to serve the growing air travel and connectivity requirements

B. Need to immediate start of Terminal 2 Phase 2 construction

C. Sub-optimal level of service at both the terminals

Hence to provide a more appropriate capacity on opening day, Terminal 2 Phase 1 is planned for 25 mppa, enhancing the total airport capacity to 45 mppa.

As discussed in Chapter 1, this proposed increase in the capacity of T2 and allied infrastructure is the reason for this revised MYTP submission by BIAL.

Runways/Taxiways

The facilities and functionalities as envisaged earlier for the runway and taxiway systems remain unchanged due to the increase of the T2 Phase 1 size from 20 mppa to 25 mppa.

Basis of the Revised Project Cost Estimate:

The revised project cost estimate were prepared. The basis of the cost estimate are:

- *Same unit rates and related assumptions maintained as considered in the earlier MYTP submission for the revised project capex estimate.*
- *Based on the above major quantity changes, the revised phasing of the works, the revised interest calculations and after considering Krishi Kalyan Cess @ 0.5% the revised project cost is computed.*

The total capacity of airport is forecast to serve the passenger demand for at least five years from opening day and the planning horizon is in line with the present growth requirements. Phase-2 of the T2, will commence from FY 2025 and is expected to be completed by FY 2027.

Other projects

Other items in capital expenditure include utilities, airport offices, rescue and firefighting, aircraft and airport maintenance and existing runway/taxiway improvements.

A summary of the key projects to be capitalized in Control Period-2 is given below-

Particulars (Rs. Crore)	*Total*
Airfield Development (South Runway (Runway 2) and Associated works)	*3246.6*
Terminal & Associated Landside (Terminal 2) and Airside Development	*4583.2*
Others	*4033.8*
Total	*11863.5*

Airport Users' Consultative Committee (AUCC) consultations

BIAL conducted stakeholder consultation workshops for Terminal 2 and Airfield Development including Runway 2 and other projects proposed in Control Period 2 between FY 2017 and FY 2021. These workshops were conducted for three stages of two projects as per schedule below:

Date of workshop	*Projects on Agenda*	*Stage*
June 2015	*Project 1: Airfield Development (South Runway and associated works)* *Project 2: Terminal & Associated Landside and Airside Development*	*I and II*
October 2015	*Project: Airfield Development (South Runway and Associated works)*	*III*

In June 2015, the first AUCC Meeting was held, where BIAL presented the following for projects planned in Control Period 2:

Project 1: Airfield Development (South Runway and Associated Works)

- *Need Identification*
- *Options Development*

Project 2: Terminal & Associated Landside and Airside Development

- *Need identification*

The minutes of this meeting were circulated to all stakeholders on 24 July 2015 and have been attached in the Annexure to this document.

Subsequently, another workshop was held where BIAL presented the following for the projects:

Project 1: Airfield Development (South Runway and Associated Works)

- *Stage III: Detail Design and Cost*

For Project 2 - Terminal & Associated Landside and Airside Development, need identification has been completed and next stage will be completed in the next 3-6 months..."

9.1.6 BIAL had subsequently carried out Stakeholder consultation for Project 2 for State III also in November 2017 and submitted minutes of meeting.

9.1.7 Based on the above, the additions to Regulatory Asset Base (RAB) and the Financing allowance/Interest thereon, submitted as part of Business Plan in April 2017 was as follows:

Table 23: Overview of Capital Expenditure and addition to RAB for second control period as submitted by BIAL (Rs. Crores)

Project	Year of Captln.	Infra Cost	Financing allowance	Interest during Construction	Total addition to RAB	RAB - Aero	RAB - Non-Aero	Total Captln. in books	Captln - Aero	Captln - Non-Aero	Category	Aero Ratio
Site preparation & Earthworks to Runway 2, Taxiway & Apron	2018	908.32	66.49	47.04	974.82	974.82	0.00	955.36	955.36	0.00	Buildings2-RW/TW	100%
Runway 2, Taxiway & Apron - Phase Ia	2020	1655.60	279.70	159.95	1935.29	1935.29	0.00	1815.54	1815.54	0.00	Buildings2-RW/TW	100%
Runway 2, Taxiway & Apron - Phase II	2021	847.67	208.58	112.63	1056.25	1056.25	0.00	960.30	960.30	0.00	Buildings1-T,B,R	100%
Second Terminal - Phase I	2021	3757.52	825.66	398.08	4583.18	4170.70	412.49	4155.60	3781.60	374.00	Buildings1-T,B,R	91%
Forecourt roadways & landside development - Phase Ia	2021	460.04	89.87	40.76	549.91	500.42	49.49	500.80	455.73	45.07	Buildings1-T,B,R	91%
Rescue & Fire Fighting	2019	12.45	0.81	0.44	13.27	13.27	0.00	12.89	12.89	0.00	PM3-Safety	100%
Airport Offices - Phase I	2018	71.39	0.00	0.74	71.39	64.96	6.42	72.12	65.63	6.49	Buildings1-T,B,R	91%
Utilities - Phase Ia	2020	118.59	15.94	9.09	134.53	122.43	12.11	127.68	116.19	11.49	Buildings3-WMS	91%
Existing runway / taxiway improvements - Phase 1a	2018	69.30	0.98	1.40	70.28	70.28	0.00	70.70	70.70	0.00	Buildings2-RW/TW	100%
Forecourt roadways & landside development - Phase Ib	2020	649.41	82.73	62.81	732.14	666.25	65.89	712.22	648.12	64.10	Buildings1-T,B,R	91%
Forecourt roadways & landside development - Phase Ic	2019	258.88	15.27	8.77	274.14	249.47	24.67	267.65	243.56	24.09	Buildings1-T,B,R	91%
Existing runway / taxiway improvements - Phase Ib	2021	103.33	0.00	0.00	103.33	103.33	0.00	103.33	103.33	0.00	Buildings2-RW/TW	100%
Terminal refurbishment	2017	79.99	4.59	0.01	84.58	76.97	7.61	80.00	72.80	7.20	Buildings1-T,B,R	91%
Forecourts	2017	79.73	3.02	0.44	82.75	75.31	7.45	80.17	72.95	7.22	Buildings1-T,B,R	91%
Sustaining capex - I	2017	65.12	2.98	0.43	68.10	61.97	6.13	65.54	59.65	5.90	Buildings1-T,B,R	91%
Sustaining capex - II	2018	85.44	10.10	10.13	95.54	86.94	8.60	95.57	86.97	8.60	Buildings1-T,B,R	91%
Second Terminal -	2021	209.38	45.66	22.06	255.04	232.08	22.95	231.44	210.61	20.83	ICT - Blended	91%

Project	Year of Captln.	Infra Cost	Financing allowance	Interest during Construction	Total addition to RAB	RAB - Aero	RAB - Non-Aero	Total Captln. in books	Captln - Aero	Captln - Non-Aero	Category	Aero Ratio
Phase I												
Second terminal-Phase II	2027	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	ICT - Blended	91%
Special Repairs, Refresh Capitalisation		779.00	0.00	4.52	779.00	735.29	43.70	783.51	739.52	43.99		0%
TOTAL		**10211.16**	**1652.38**	**879.29**	**11863.54**	**11196.02**	**667.52**	**11090.45**	**10471.46**	**618.99**		

9.1.8 BIAL had also informed vide letter dated 21st November 2017 that certain works had been awarded at costs lower than that of the estimates and were to be considered accordingly in the MYTP submissions.

9.1.9 BIAL had, subsequently, in February 2018, given the break-up details of the savings detailed in the letter, and had also submitted changes in the Capital Expenditure estimates, key reasons being:

9.1.9.1 Consideration of Goods and Services Tax (GST) instead of the erstwhile Service Tax (ST)/ Works Contract Tax (WCT).

9.1.9.2 Changes in estimates of Special Repairs.

9.1.10 BIAL, in its submissions made on the same in February 2018 stated as follows:

"...Also, due change in law (GST regime), there is additional GST impact. We have estimated GST at 13% as against WCT at 6%..."

9.1.11 BIAL had considered a total of Rs. 929.55 crores as "Sustaining Capex / Special Repairs" for addition to RAB, in addition to the Projects detailed above, in addition to other minor Projects viz Terminal Refurbishment and Forecourts (Rs. 160 crores). In the revised details submitted by BIAL, the total estimate of Sustaining Capex/ Special Repairs and minor projects had increased to approx. Rs. 1700 crores – Rs. 1800 crores for the control period. Break-down details of these projections on the same which were provided by BIAL in February 2018 & March 2018 were detailed in Annex-4 in the Consultation Paper. Certain key costs/ projects include Terminal Refurbishments, Airfield Pavement works, ICT Requirements, Additional parking stands, ITI project, Express Cargo, Aadhaar enabled entry, 220KV substation etc.

9.1.12 Further, BIAL had, on 12th March 2018, submitted details of certain costs to be incurred out of the savings submitted in November 2017. BIAL had also submitted details of another project proposed to be executed by it. BIAL, in its mail had stated as follows:

"...BIAL vide its letter dated 21st November 2017 vide ref: AERA/Finance/2017-18/13 had informed AERA about the award of tender for the New South Parallel Runway (NSPR) - including Pavement, T2 aprons, Remote aprons and AGL. It was submitted that there were cost savings to the extent of Rs.723Cr.

However, BIAL wishes to submit that post the award of tender, there have been some additional works to NSPR/T2 Apron Works which were not previously considered. These are essential works amounting to Rs. 143 cr. (excluding Design, GST, Project Management, Contingency, IEDC and Pre-operatives). The cost break-up is given below:

Additional Works that needs to be considered as part of NSPR/T2 Apron Works

Description	*Construction Cost estimated (Cr Rs)*
Gate House No 2 / surrounding infrastructure / Utilities /Road security infrastructure	*15*
Infrastructure required for airside but being constructed as part of terminal - substation equipment, VDGS server /support system, support utilities, interfacing infrastructure.	*30*
Additional Rainwater Harvesting Ponds / Pumping & Piping Infrastructure /Utilities	*20*
Remote Stands – VDGS	*20*
Taxi Bots Infrastructure provisions	*50*
Additional GSE Parking	*8*
Total - Construction Cost	*143*

The Detailed explanation for the above works are given in Annexure 1.

BIAL wishes to submit that the above Construction cost for these works amount to Rs. 143 cr. which are imperative and need to be executed along with the NSPR project. As BIAL has already shared with the Authority the savings from NSPR tendered project, BIAL would request the Authority to consider these additional costs as a reduction from the savings and approve of the same for the capital expenditure to be considered for the MYTP for 2^{nd} Control Period.

Eastern Tunnel Works

The Kempegowda International Airport (KIA) currently has a single external access through the Trumpet on NH 44 (earlier NH 7). As this was of a serious security concern, the BIAL Management explored alternate access points to the airport and evaluated options which were discussed with Government of Karnataka (GoK) / Infrastructure Development Department (IDD). Also, the construction works on the South Western connectivity has commenced and is planned for operationalization by March 2018. An Eastern Connectivity Road providing connection to the proposed MRO/Cargo facilities on the KIA Eastern development pocket (not connected to the airport west areas and the terminals) is under construction by the PWD department. Further BIAL is also evaluating alternate connectivity options to the Terminals (T1 & proposed T2) like the Southern Tunnel Option *(below the proposed second runway/taxiway) and the Eastern Tunnel Option (below the proposed T2 Apron, east cross field taxiway).*

BIAL has conducted a feasibility study to evaluate options and based on the study it is proposed that the Eastern Tunnel Access road would be feasible and which would make the airport more easily accessible for the eastern part of Bengaluru city.

The construction of the Eastern Tunnel works is proposed to be built in two phases. The Phase 1- Early Works includes construction of Tunnel below cross field taxiway (approximately 300 m, only civil works) is estimated at a cost of Rs. 88 cr. (including construction, design, PMC, pre-operatives and contingency). The tentative construction schedule is planned for June 2018 to June 2019.

The Phase 2- Main Works including the construction of remaining portion of the tunnel, ramps, for operationalization of the road along with all the pending works in earlier works such as pavements, utilities etc. The Main Works package at an estimated cost of Rs.1033 cr. (at 2017 price levels) including construction, design, PMC, pre-operatives and contingency. The tentative construction Schedule is planned for June 2021 to June 2023. A detailed note is attached as Annexure 2.

BIAL wishes to submit that given the rapid growth of KIA and security concerns of having only a single access road to KIA, it is necessary to consider the alternative connectivity options along with the development of airfield development works so as to facilitate traffic and address security concerns..."

9.2 Authority's analysis of Capital expenditure detailed in Consultation Paper

9.2.1 **Additions to RAB – Projects -** Authority had carefully examined the detailed submissions made by BIAL with respect to the large-scale Capital Expenditure projects being undertaken by it during the second control period, which would be added to RAB.

9.2.2 Authority had also noted submission made by BIAL dated 21st November 2017 wherein BIAL had stated that:

"... BIAL wishes to inform AERA that BIAL has invited tenders for the New South Parallel Runway (NSPR) – including Pavement, T2 aprons, Remote Aprons and AGL. The financial proposals received through e-tendering were evaluated and Larsen & Toubro is the L1 bidder. The Lumpsum Contract Price including the associated works are estimated at INR 1428 crores excluding soft costs amounts (Design and Engineering, Contingency and Preoperative expenses). The costs for the NSPR as considered by BIAL in the Business Plan submitted was INR 2151 crores. These were cost estimates and cost savings to the extent of INR 723 crores primarily on account of value engineering proposition as expected from the bidders which ensured that the short-listed contractors could bid at optimized cost levels. At the same time, we ensured that quality and specifications as required under the tender documents are

safeguarded. BIAL will endeavour to work with the contracting partners to ensure value engineering proposition to arrive at optimal costs for Terminal T2 and allied projects as well..."

9.2.3 The Authority had taken note of the above and asked BIAL to submit a reconciliation mapping the costs as considered in Business Plan versus the revised estimates. This was received from BIAL on 20th February 2018, 12th March 2018 and 21st March 2018.

9.2.4 The Authority had issued Order No. 07/ 2016-17 with reference to Normative Approach to Building Blocks in Economic Regulation of Major Airports – Capital Costs Reg. wherein certain normative ceiling limits were specified for key airport costs viz Terminal and Runway/ Taxiway/ Apron. Based on request from BIAL for review of the estimates, the Authority had engaged a consultant to review and evaluate the Capital Expenditure Proposals submitted by BIAL covering the following:

9.2.4.1 Assessing the need for the proposed project and its capacity/scope with reference to Passenger growth/Cargo Volumes/Air Traffic Movement and also to suggest cost effective alternatives

9.2.4.2 Evaluation of Building standards and designs with reference to IMG/ IATA/ ICAO norms

9.2.4.3 Evaluate reasonableness of the proposed costs with reference to the tentative cost ceiling detailed in Order No. 07

9.2.4.4 Review design and specifications and evaluate if proper procedures have been followed for award of work and

9.2.4.5 Review and justify the reasonableness of the time schedule of completion of work proposed by BIAL.

9.2.5 The Consultant had shared the final report on 25th January 2018. Report of the Consultant was attached as Annex-3 to the Consultation Paper.

9.2.6 Tabulation detailing the Broad Project head, submission by BIAL, cost evaluated and considered reasonable by the Consultant etc. were detailed as below:

Table 24: Comparison of block cost estimates considered by BIAL and that evaluated by the Consultant (Rs. Crores)

Particulars	Block estimate submitted by BIAL	Cost evaluated	Key differences
New south airfield development works	2,304	1910	As against Rs. 726.66 crores planned for earthworks, works awarded is Rs. 547.31 crores – This is incorporated. Cost of Bitumen considered at 59,000 per MT at 2014 level – this has reduced subsequently – considered 38,550 per MT
T2 Apron 1	678	640	Rate of Reinforcement reviewed and changed
Second Terminal Phase 1	3,174	3077	Rate of steel reviewed
Forecourts, roadways and landside development	1,256	1124	Steel rates corrected
Aircraft maintenance and Airport maintenance	132	130	
Rescue and Fire Fighting	10	10	
Fuel storage & Distribution - Phase 1	1	1	

Particulars	Block estimate submitted by BIAL	Cost evaluated	Key differences
Airport and Administration offices	57	57	
Utilities Phase 1	98	98	
Existing Runway, Taxiway improvements	320	275	Cost of Bitumen corrected
Design/ PMC 10%, Contingency 10%, Pre-Op 5%	2,008	613	Design and PMC - 10% claimed by BIAL reduced to 5% based on review of other projects and reasonableness for a large project Contingencies claimed at 10% by BIAL. BIAL reduced it to 6% at the time of providing clarifications. 3% considered reasonable
Site Preliminaries		76	Submitted by BIAL additionally - Preliminaries at 1% considered reasonable.
Second Terminal ICT		257	Submitted later by BIAL, Considered reasonable
TOTAL WITHOUT IEDC	10,038	8268	

Notes:

Additionally, RITES has commented on Project Management Cost Incurred by BIAL for which Authority has to take a view.

The total block cost estimate submitted by BIAL does not match with the additions to RAB in the MYTP submitted by BIAL as:

i) Block cost estimates do not consider minor project capitalised in 2016-17 and estimates towards Sustaining Capex and Special Repairs

ii) Above Block cost includes certain projects which are expected to be capitalised beyond the second control period, in the year 2021-22

9.2.7 The Authority also noted BIAL's submissions relating to certain additional projects to be done, as a withdrawal from the savings submitted as detailed in Para. 9.1.12 above. The Authority accordingly proposed to evaluate costs based on approval by RITES and adjusting the net savings shared by BIAL.

9.2.8 The Authority noted that BIAL had requested for additional amounts to be considered due to difference between the Indirect Taxes considered earlier at the time of submissions and the Goods and Services Tax (GST), which is applicable currently. The Authority noted that while the indirect taxes applicable had changed, the amounts to be considered for Capitalization would be after considering the credits that can be taken on the same. Hence, the Authority proposed not to consider the impact due to GST currently and will evaluate the same after the costs are incurred and capitalized in books.

9.2.9 The Authority had noted that RITES had commented about the Pre-Operating Expenses submitted by BIAL, as follows:

"...An amount of Rs. 461 Crores has been included in the revised submissions towards preoperative costs which includes Rs. 180 Crores towards PMC. The cost towards PMC is already taken into consideration at Sl.no.14 above and hence to be excluded. AERA may therefore like to take a view on the balance amount of Rs.281 Crores claimed towards Pre-Operative expenses..."

9.2.10 Authority had obtained certificate from Chartered Accountant on the details of Pre-Operative expenses carried in books and sought confirmation that these costs were not considered as part of the expenditure debited to P&L account. Extract from the certificate of the Chartered Accountant is as below.

This is to certify that Bangalore International Airport Limited (BIAL) has incurred the below mentioned preoperative expenditures for various projects, during the FY 2016-17 and FY 2017-18 (Till Dec 2017).

Amount In INR

Particulars	FY 2016-17	FY 17-18 (Till Dec 17)
Opening Balance of Preoperative Expenses	**45,84,96,394**	**65,50,28,603**
Add: Expenses Incurred during the year :		
Payroll Costs	30,20,48,698	21,80,13,508
Professional & Technical Consultancy	3,96,77,225	17,15,417
Travelling and Conveyance	1,76,46,197	70,77,721
Other Project Costs	23,71,514	1,83,72,626
Less: Preoperative Expenses capitalized	**(16,52,11,424)**	**(5,03,79,160)**
Closing Balance of Preoperative Expenses	**65,50,28,603**	**81,13,63,283**
No. of Employees whose cost included above	**105**	**92**

Also confirm that these costs are part of Capital work-in-progress and not included in Operating Expenditure debited to P&L account.

9.2.11 The Authority had reviewed the certificate provided. The Authority also noted that certain costs relating to Pre-Operative Expenses were carried over from the year 2015-16 (and may be before too). The Authority also noted that BIAL had submitted details of the personnel deployed, cost of which would be debited to Pre-Operative Expenses. The Authority noted that there was a need to have an own Project Management Team when large scale Capital Expenditure Projects are being executed. The Authority urged BIAL to ensure that the costs relating to Pre-Operative Expenses be optimally managed based on the requirements of the stated projects only. As these costs were proposed to be incurred over the second control period, the Authority proposed to consider an amount of Rs. 150 crores towards the same, as against BIAL submission, for the purpose of estimating the costs and capitalisation for MYTP. The Authority would review and true up the same after the Projects are commissioned based on a study of the actual cost incurred and its reasonableness.

9.2.12 The Authority had noted submissions made by BIAL with respect to additional project viz. Eastern Tunnel Works. The Authority noted that this was at a very initial conceptual stage and there is a need for carrying out Stakeholder consultations for the project. The Authority, accordingly, proposed to not consider the submission made relating to Eastern Tunnel Works, for the purpose of estimating the additions to RAB. The Authority sought views from Stakeholders on the same and would true up the same after these are incurred and capitalised, based on detailed review and evaluation of the actual costs incurred, comments from stakeholders and the reasonableness of costs incurred.

9.2.13 Based on the above analysis, the Authority had, keeping RITES report as the base and giving effect to the savings submitted by BIAL in the letter dated 21st November 2017 and subsequently, considered the following costs against the block estimates for consideration in the MYTP for the second control period.

Table 25: Cost estimates proposed to be considered by the Authority as detailed in Consultation Paper 05/ 2018-19 (Rs. Crores)

Particulars	Block estimate (A)	Loading 25% as per BIAL (B)	Total cost – BIAL April 17 submission (A+B)	RITES analysis as against Column A	Base value to consider	Cost incl. apportion	Rationale for the base value considered
New south airfield development works	2,304	576	2,880	1,910	1,910	2123	Base value of BIAL reworked (Rs. 2010 crores) is higher than the Base value considered by RITES (Rs. 1910 crores). Hence, RITES value considered.
T2 Apron 1	678	170	848	640	414	460	Base value as per RITES is Rs. 640 crores and BIAL value is Rs. 271 crores plus Rs. 143 crores. BIAL base value considered
Second Terminal Phase 1	3,174	794	3,968	3,077	3,077	3420	As per RITES analysis and reduction. BIAL revised base value is with 6.6% increase due to GST, not considered
Second Terminal ICT				257	257	286	
Forecourts, roadways and landside development	1,256	314	1,570	1,124	1,124	1249	As per RITES analysis and reduction. BIAL revised base value is with 6.6% increase due to GST, not considered
Aircraft maintenance and Airport maintenance	132	33	165	130	130	145	As per RITES analysis. BIAL revised base value is with 6.6% increase due to GST, not considered
Rescue and Fire Fighting	10	3	13	10	7	8	BIAL revised analysis lower and hence considered
Fuel storage & Distribution - Phase 1	1	0	1	1	-	0	Not available in Business Plan. Not considered
Airport and Administration offices	57	14	71	57	57	63	As per RITES analysis. BIAL revised base value is with 6.6% increase due to GST, not considered
Utilities Phase 1	98	25	123	98	98	109	As per RITES analysis. BIAL revised base value is with 6.6% increase due to GST, not considered
Existing Runway, Taxiway improvements	320	80	400	275	275	306	As per RITES analysis and reduction. BIAL revised base value is with 6.6% increase due to GST, not considered
Site Preliminaries				76	72		1% of above costs

Particulars	Block estimate (A)	Loading 25% as per BIAL (B)	Total cost – BIAL April 17 submission (A+B)	RITES analysis as against Column A	Base value to consider	Cost incl. apportion	Rationale for the base value considered
Sub-Total	8,030	2,008	10,038	7,655	7,423	8,167	
Design/ PMC 10%, Contingency 10%, Pre-Op 5%	2,008	-2,008	-	613	593		8% as per RITES estimate
Add: Pre-Operating Expenses					150		
TOTAL	**10,038**	-	**10,038**	**8,268**	**8,167**	**8,167**	
Note: The numbers above do not match with the additions to RAB for second control period, as this includes certain items which are proposed to be completed and commissioned in the year 2021-22, after the second control period. Above Block cost includes certain projects which are expected to be capitalised beyond the second control period, in the year 2021-22							

9.2.14 The Authority had also reviewed report by RITES on time schedule for completion of Projects. RITES analysis was as detailed below:

"...5.4. Construction Schedule

BIAL has submitted the overall implementation schedule with date of commencement as April 15 and completion in March 2022 including design development, procurement and construction. The construction works is planned to begin from July 2017 to March 2021 for pavement works (45 months) and from Oct. 2017 to March 2021 (42 months) for the building works. The time for construction stipulated by AAI in some of the tenders for airport terminal building projects for Project Management Consultancy including design and supervision is 9 months planning & design and 36 months for construction. Hence the time schedule proposed by BIAL is considered to be reasonable..."

9.2.15 The Authority noted that BIAL has commenced works relating to Runway and Airside expansion works but the works relating to Terminal Building had not commenced as yet. As the construction activities had not started on the same, the Authority proposed to estimate Terminal Building completion in 2021-22 and accordingly proposed to exclude the same from additions to RAB for the second control period. The Authority sought detailed explanations from BIAL on the plan of construction for Terminal Building and its expected date of capitalisation.

9.2.16 The Authority had accordingly considered the revised cost for computing additions to RAB for the purpose of determining ARR for the second control period.

Additions to RAB – Special Repairs/ Sustaining Capital Expenditure

9.2.17 The Authority also noted that BIAL had considered a total of Rs. 929.55 crores as "Sustaining Capex / Special Repairs" for addition to RAB, in addition to the Projects detailed above, in addition to other minor Projects viz Terminal Refurbishment and Forecourts (Rs. 160 crores).

9.2.18 The Authority noted that in the revised details submitted by BIAL, the total estimate of Sustaining Capex/ Special Repairs and minor projects had increased to approx. Rs. 1700 crores – Rs. 1800 crores for the control period. The Authority had reviewed the details provided by BIAL for the same.

9.2.19 The Authority noted that BIAL would need to incur Special Repairs / Sustaining Capex works for the regular upkeep and carrying out minor activities. The Authority also noted BIAL's submissions on need for managing the current constraints in Terminal Capacity and planning certain IT and other solutions for the same which necessitate certain Capital Expenditure projects to be implemented. While the Authority noted that, on an average around Rs. 32 crores - Rs. 34 crores was the value of Special repair / Sustaining Capex cost capitalised in the first control period, the Authority, also noted that BIAL had actually incurred around Rs. 200 crores per annum towards special repairs/ minor projects in the years 2016-17 and 2017-18. A certificate to this effect had been submitted by BIAL.

9.2.20 The Authority noted that where cost of the Project is over Rs. 50 crores, appropriate stakeholder consultation was required to be carried out, as per the Airport Guidelines.

9.2.21 The Authority proposed to consider actual costs capitalised in 2016-17 and 2017-18 and approx. Rs. 200 crores per annum from 2018-19 to 2020-21 in the estimate of Special Repairs / Sustaining Capex for the purpose of the MYTP submissions, on an adhoc basis. The Authority urged BIAL to ensure that the costs incurred towards these were justified based on its need and were incurred based on optimal evaluation of costs and alternates. The Authority noted that expenses actually incurred on these projects would be reviewed in detail and considered for true up at the end of the control period, based on its need and reasonableness of costs spent and after considering any disposal proceeds/ realisations from replaced assets.

9.2.22 The Authority noted that BIAL had considered Financing allowance for addition to RAB as provided in Direction 5 – Airport Guidelines, against Interest cost during construction which will be capitalised as cost of the asset. The Authority also understood that these estimates would vary considering the Debt / Equity mix in the funding for Airport Project, where the Projections made by BIAL considered substantial funding of the Project by Equity (which was estimated to be available considering BIAL's estimate of ARR for the second control period). (In doing the calculations in the Business Model submitted, the Authority had considered gearing of upto 75% and 70% respectively instead of a lower gearing as considered by BIAL).

9.2.23 Accordingly, RAB recomputed by the Authority considering direct changes to the cost estimates based on Consultant values and Special Repairs/ Sustaining Capex as above, together with other changes in ARR and resultant Equity and Debt mix was as detailed below:

Table 26: Overview of Capital Expenditure and addition to RAB for second control period as recomputed by the Authority detailed in Consultation Paper 05/ 2018-19 (Rs. Crores)

Project	Year of Capitalisation	Infra Cost	Financing allowance	Total addition to RAB	RAB - Aero	RAB - Non-Aero	Category
Site preparation & Earthworks to Runway 2, Taxiway & Apron	2018	670.00	43.57	713.57	713.57	0.00	Buildings2-RW/TW
Runway 2, Taxiway & Apron - Phase Ia	2020	1,228.14	183.67	1,411.81	1,411.81	0.00	Buildings2-RW/TW
Runway 2, Taxiway & Apron - Phase II	2021	460.21	99.92	560.13	560.13	0.00	Buildings1-T,B,R
Forecourt roadways & landside development - Phase Ia	2021	372.33	64.20	436.54	397.25	39.29	Buildings1-T,B,R
Rescue & Fire Fighting	2019	7.93	0.46	8.39	8.39	0.00	PM3-Safety
Airport Offices - Phase I	2018	63.05	0.00	63.05	57.37	5.67	Buildings1-T,B,R
Utilities - Phase Ia	2020	105.40	12.55	117.95	107.33	10.62	Buildings3-WMS
Existing runway / taxiway improvements - Phase 1a	2018	58.23	0.73	58.96	58.96	0.00	Buildings2-RW/TW
Forecourt roadways & landside development - Phase Ib	2020	442.51	49.98	492.49	448.16	44.32	Buildings1-T,B,R
Forecourt roadways & landside development - Phase Ic	2019	258.88	13.56	272.44	247.92	24.52	Buildings1-T,B,R
Existing runway / taxiway improvements - Phase Ib	2021	80.46	0.00	80.46	80.46	0.00	Buildings2-RW/TW
Terminal refurbishment	2017	79.99	4.09	84.08	76.51	7.57	Buildings1-T,B,R
Forecourts	2017	79.73	2.70	82.43	75.01	7.42	Buildings1-T,B,R
Sustaining capex - I	2017	65.12	2.66	67.78	61.68	6.10	Buildings1-T,B,R
Sustaining capex - II	2018	85.44	8.97	94.41	85.91	8.50	Buildings1-T,B,R
Total Infra Capitalisation		**4,057.42**	**487.06**	**4,544.48**	**4,390.47**	**154.00**	
Special Repairs and Refresh Capitalisation	2018 - 2021	781.75	0.00	781.75	693.57	88.18	
TOTAL		**4,839.17**	**487.06**	**5,326.23**	**5,084.05**	**242.18**	

9.2.24 The Authority noted that the actual cost of Capital Expenditure may vary till the Project is completed. The Authority also noted that the capitalisation/ addition to RAB would vary due to various factors such as the timing of expenditure, manner of funding etc. The Authority therefore proposed to true up the cost based on actuals subject to a cap of 10% over the cost as per the Consultant approval for the Projects.

9.3 Stakeholders' comments on Authority's analysis of Capital Expenditure

9.3.1 AISATS has stated the following:

"...AISATS has incurred substantial investments relying upon the promising growth projections at the KIA. These measures and Investments will only yield results if KIA is able to maintain the growth story and attract new domestic and foreign carriers to start operations at KIA.

In order to ensure that capacity constraints at KIA do not adversely affect the growth of aviation industry in general and growth of BLR Airport in particular, we request AERA to kindly consider the cash flows / capital expenditure requirements of KIA for the timely expansion of the airport's capacities..."

9.3.2 AOC Bangalore has stated the following:

"...KIA has witnessed double digit growth in passenger traffic which is showing no signs of subsiding... KIA is currently designed to handle a traffic of 20 MPPA and its infrastructure has already been stretched to handle close to 27 MPPA in FY 2017-18. The growth rate pattern would require substantial investments in capacity both on the airside as well as Terminal side. Therefore, KIA's investments in airport infrastructure is critical for the growth of the entire aviation ecosystem in the region.

KIA has capacity expansion plan in terms of adding a 2nd runway, 2nd Terminal and other associated facilities and has submitted a proposal to AERA for approval of Capex. We also understand that some capex projects are still under consideration by AERA and request AERA to consider on need basis the important projects which are critical to the smooth running of the airport..."

9.3.3 APAO has stated the following:

"...In the context of reviewing BIAL's proposed expansion project cost for the second Control Period, we understand that the Authority had engaged an independent technical consultant. Based on the technical consultant's report, the Authority has revised and brought down the estimated cost of the expansion project of BIAL to Rs 8,167 crore from Rs 10,038 crore which was requested by BIAL and has also capped the true-up of the expansion project up to 10% over the cost as per the consultant approval in the third Control Period.

We would like to highlight to the Authority that project cost estimates that were submitted by the airport operator prior to the implementation of the project works were only estimates of the expected expenditure and these cannot be predicted with complete accuracy. Typically, the private airport operators in India have adopted robust practices for competitive bidding for the project works, internal project management practices to control costs etc. However, given the uncertainties on account of fuel prices, costs of raw materials, inflationary pressures etc., the actual costs incurred may vary. Therefore, an estimation of project is an airport operator's best estimate of how the above factors would perform in future.

In light of the above and the unprecedented rise in traffic at the KIA, we would like to submit that the implementation of airport expansion project works should not get unduly constrained by a cap. We would therefore request the Authority not to put in place a hard cap on project cost of airports but to consider each escalation from the projections based on merits of circumstances while truing up the project cost..."

9.3.4 BPAC has commented as follows:

"...The Eastern Tunnel work connectivity has been estimated at cost INR 1121 Cr by KIAL in its submission. We request AERA to direct KIAL to furnish a breakup of the line items and estimated costs of the tunnel work. Further, we urge AERA to relook in to the design and cost aspect of Eastern Tunnel connectivity.

We urge the AERA to direct KIAL to draw a Master Plan including land usage with phase wise development along with the timeline and the cost for utilizing the land parcel of area 4008 acre. This parcel of land has been provided by the Government of Karnataka (GoK) under the State Support Agreement. We also request AERA to indicate to KIAL to provide a platform for a citizen consultation to elicit comments on the Master Plan. The delay in the development of the land parcel would not only increase the burden on the UDF and the PSF but would also reduce the availability of retail and recreation services to the passengers.

KIAL in its submission to AERA during April 2017 had estimated the cost for construction of a new terminal at INR 10,038 Cr. However, the evaluation report submitted by RITES to AERA estimates the construction cost of the new terminal at INR 8268 Cr. We request AERA to direct KIAL to furnish details on the difference of INR 1740 Cr in the cost estimated. AERA should relook in to the design and cost part of the new terminal.

....The KIAL in its submission to AERA has estimated cost of Eastern Tunnel work connectivity at INR 1121 cr. This estimated cost appears to be excessive. .... We would also request AERA to appoint an independent consultant such as RITES to validate the design and the cost estimated by KIAL before approving the same"

Capacity over utilization has led to congestion at KIA.

As per Fairfax's Annual Report, it is estimated that KIA will handle passenger traffic of ~26Mn in FY2018. With a capacity of merely 20Mn, the airport is currently operating at an overutilization rate of 130%. In its 2017 credit review of KIAL's instruments, ICRA noted that the passenger throughput had exceeded the terminal capacity leading to capacity constraints during peak hours. This is clearly visible at the airport today and the passengers are already feeling the brunt, with the Airport clogged right from 6 am.

Further, the airport will be in no position to increase its capacity until the completion of the first phase of the new terminal building in 2021, which will increase capacity to 45Mn..."

9.3.5 IATA has stated the following:

*"...**Capital Expenditure:** - Merely updating stakeholders on BIAL's high level investment plans is an ineffective and unreasonable approach to consultation. No project Business Cases have been shared with the airline community including information regarding costs or return on investments. Consultation on a project by project basis is required in significantly more detail than has been shared to enable the AUCC to provide informed feedback regarding investments the airlines are funding and paying for through aeronautical charges. IATA is perplexed at AERA's lack of willingness to enforce its own Consultation Protocol to support meaningful consultation at Bangalore, and other regulated airports in India that is surely in consumers and Users interests. With respect to AERA's comments noted on previous responses, a lack of AERA resources is not a reasonable basis to avoid supporting Users consultation or addressing the concerns we consistently raise. We do not necessarily require AERA to join consultation meetings (much as that would be useful) - as a start we simply request AERA supports our request that airport's consult as they should already be doing in line with the Consultation Protocol i.e. by writing letters to airports reinforcing the need for meaningful consultation, joining conference calls, and generally taking much more of an interest in enforcement of these activities.*

While we respect the BIAL management team, the data summarised in section 5.2.2.2 and references to AUCC consultations has little meaning without the corresponding project level detail. A small handful of AUCC meetings called on an ad hoc basis between 2015-17 that includes no information on project costs and benefits is ineffective and leaves the airline community extremely frustrated regarding our ability to provide informed feedback. Until we are in a position assess project costs and benefits, and understand there is a positive return to Users we are unable to support the costs being added to the RAB.

So AERA is aware, IATA and the BLR AOC wrote to the Managing Director of BIAL in December 2017 thanking them for information shared to date, and requesting consultation regarding further project details including costs, however we have not received a response.

To address some specific points raised:

Reference section 6.2.3 BIAL states the new terminal and airfield development will also require the development of adjoining area for access to terminals and retail outlets for passenger ease and comfort, and other elements such as Utilities, offices, and maintenance. We request consultation on project details have not been shared to date with the airline community.

Reference BIAL's comment total airport capacity is forecast to serve the passenger demand for at least 5 years from opening day of new facilities, the airport goes on to reference Phase 2 of Terminal 2 will be developed FY2025-27. Development should not be pre-determined by dates, however by demand that we recommend is supported as common industry best practice to ensure balanced capacity over time. This may be BIAL's intent however does not read as so.

Regarding "Sustaining Capex / Special Repairs we do not agree with AERA's decision to include actual costs incurred for elements in 2016-17 and 2017-18 of 200 crores per annum until proper scrutiny of costs, on the basis the actuals incurred are almost 6 times the original costs in the first control period. We agree BIAL should consult on amounts over 50 crores.

Reference Terminal developments we agree with BIAL assessment that a phased approach to terminal development based on demand triggers and generally accept its approach. However, a Business Case still needs to be shared and reviewed in consultation with Users.

We request further AUCC consultation regarding terminal design concepts, passenger flows and capacity and demand analysis and a review of capital costs. We are pleased BIAL is applying IATA Level of Service parameters as a design input, however please note these are high level inputs that do not replace the need for detailed analysis and simulation that Users request to review. Consulting on detailed passenger and operational planning assumptions is very important to ensure the Users agree with them.

Reference 6.3.12 Eastern Tunnel Works, we completely agree with AERA's assessment that feasibility requires consultation with the airline community in advance of any irreversible decisions being taken. Again, we require options, costs and benefits to be shared via a Business Case clearly demonstrating a return on investment for Users.

London's Heathrow as one of the world's busiest hubs with around 77 million passengers and 480,000 ATMs from 2 runways, has just one public access tunnel to the central terminal area to access Terminals 2 and 3 (and the old Terminal 1).The associated risks of a single point of entry have been carefully managed over a number of years with high levels of resilience, and so a second tunnel at BIAL may or may not be required, that should be subject to scrutiny and detailed consultation.

Reference 6.3.2 and 6.3.3 we agree with AERA's decision to map costs in BIAL's Business Plans taking into account a review of normative cost benchmarks, and through AERA's *consultant an assessment on project requirements considering capacity and demand factors.*

Regarding AERA's assessments, we agree no additional allowances should be made for GST. Reference proposal number 5, we recognise the efforts AERA has made to try and determine a capitally efficient cost for the 2nd control period and efforts to reduce costs. We would comment however that while a cap is a reasonable approach allowing an additional 10% of capex true-up provides little incentive for BIAL to be efficient, and is in effect a bonus for the airport. We recommend the cap is applied on AERA's INR 10,471 Crores assessment of costs for the period...."

9.3.6 Menzies has stated the following:

"...MABB has been one of the cargo terminal operators at Kempegowda International Airport, Bengaluru (BIAL). For the airport to cater to the industry requirements, maintain global service standards and have continual growth, the airport infrastructure needs to be upgraded and ground access developed.

We understand that BIAL is undertaking substantial investments. Given the importance of such investments to BIAL and the criticality to implement the project given the growth scenario we request the Authority to ensure that investments are approved as it is important that expansion plans are not delayed which could have adverse impact on industry. Further, BIAL has requested for cash flow support to meet the capacity expansion plans, the same should be considered by the Authority as per Regulatory framework..."

9.3.7 GoK Infrastructure Development Department has stated the following:

"...AERA has taken certain stands on the tariff and capital expenditure, which might have an adverse impact on timely completion of the expansion projects of BIAL.

The capital expenditure considered by AERA for the determination of aeronautical tariff excludes certain projects on an approximate value of Rs. 1212 cr. These exclusions are in respect of GST impact on project cost, capital expenditure for the Eastern Tunnel and other important ancillary projects such as 220 KV substation, existing terminal improvements etc.

AERA may kindly ensure that appropriate measures are taken during the tariff determination process so as to take care of the expansion and growth requirements of BIAL..."

9.3.8 Sanjeev V Dyamannavar has stated as follows:

"...Cost of Connectivity to Airport from City: As KIAL was planned for handling 40 – 50 Million Passengers during 2005 itself, either GoK or KIAL Management gave serious thought and moved on Mass Public Transport to ensure no congestion happens at the Airport Terminal. This is been followed in all Major international Airports.

a. Metro Connectivity from City: Connectivity by METRO by BMRCL with additional funds requirement of INR 1000 Crore. This will further burden the Airport passengers through additional UDF.

Further, after the metro line is operational, all passengers travelling to and from the airport metro line should be charged a premium service charge by way of higher ticket fares which will keep less UDF burden on passengers.

B. Suburban Rail: As Indian Railway track exists before Airport construction next to Airport Boundary, no concrete plans to utilize and provide mass transport facility to 24 /7 work force at the airport by GoK, KIAL Management and Ministry of Railways. This has forced people travelling to airport pay the Toll Charges till Mar 2018 for 6 Years period.

C. Trumpet Flyover as 100% Aeronautical Assets by KIAL: Already KIAL had claimed with cost of building the same Trumpet Flyover at Rs 137.83 Crore and also BIAL has further treated Asset allocation basis as Aeronautical Assets

Basis for allocation: Movement of Passengers and staff.

Already Airport passengers are forced to pay the Trumpet flyover cost through UDF during 1st Control Period which was unfair and now further recovery from passengers for Metro & Tunnel.

D. Eastern Tunnel Connectivity: The KIAL in its submission to AERA has estimated cost of the Eastern Tunnel work connectivity at INR 1121 cr. This estimated cost appears to be on Higher side. We request AERA to direct KIAL to re-design the Tunnel keeping cost low and even maintenance cost should be furnished in the AERA proposal.

E. Other Options in Airport Connectivity: Options explored by KIAL Management has left connectivity from Devanahalli Town. Also, these higher costs of Tunnel will impact UDF in Control Period -3 for which AERA should be sensitive.

As GoK through KIDB has 400 acres of land adjacent to KIAL towards Devanhalli for building International Conference Facility or Signature park. So, connectivity from Devanhalli is very much required considering future growth of Airport in terms of Cargo & IT region being developed by GoK also. KIAL Management should exercise the option 1 as indicated above before heavily investing in Tunnel..."

9.3.9 Siemens has stated the following:

"...Bangalore International Airport is experiencing high growth in traffic and we are now the 3rd largest airport in the country. BIAL is in the midst huge expansion plans consisting of mainly Airfield projects for 2nd Runway, taxiways, Apron, Terminal T2 and Other associated Projects. A Capital Outlay of around Rs. 11,000 Crores is estimated for the future expansion projects and we have made considerable progress In execution of these projects.

Despite the Positive intents of the Government and the Regulatory authority in terms of Progressive policies and approach, the experience of investors in airport sector in India have been mixed. We believe that the sector could not attract the requisite Private Investments in airport projects as compared to the growth potential on account of policy and regulatory uncertainties. This is mainly due to inconsistent approach by ministry in terms of implementing the provisions of Concession Agreement differently amongst the similarly place airports and also due to inconsistent approach by AERA in their consultation papers issued for various airports.

In order to attract the requisite sum of Investments and to ensure the sector is posed towards a compelling future, AERA would need to improve the viability of airport projects and bring clarity and consistency in the application of regulation. The provisions of the CA's should be held sacrosanct, as the investor confidence is highly dependent on such an approach.

Further we also request AERA to consider the CAPEX estimates as submitted by the BIAL and not to exclude any CAPEX investment. Such an approach is a need of the day in the present situation where we are in a pressing need to create significant capacity at airport..."

9.4 BIAL's response to Stakeholders' comments on Authority's analysis of Capital Expenditure

9.4.1 On IATA's comments, BIAL stated as follows:

"...IATA has stated that merely updating stakeholders on BIAL's high level investment plans is an ineffective and unreasonable approach to consultation. No project business cases have been shared with the airline community including information regarding costs or return on investments. Further, IATA has stated that it is perplexed at the Authority's lack of willingness to enforce its own Consultation Protocol to support meaningful consultation at Bangalore, and other regulated airports in India, that is in interest of consumers and users.

BIAL wishes to submit that the Airport Guidelines lay down the Consultation Protocol and also mention the composition of stakeholders so as to adequately represent interest of airport users.

BIAL has conducted the AUCC process in line with the Airport Guidelines set by the Authority. All the project details, cost and relevant information have been captured in the Project Information File that has been submitted to stakeholders to have a meaningful discussion. Further, the queries of the stakeholders have also been addressed and submitted as part of the Multi Year Tariff Proposal ('MYTP') submission to the Authority. BIAL has shared all the above relevant details to IATA, as an integral stakeholder of the AUCC process.

Further, in addition to above requirement, BIAL proactively has undertaken two intensive workshops with IATA on T2 Phase 1 as a pre-discussion to consultation process and shared all relevant details with IATA. Subsequent to the workshops conducted by BIAL for IATA there have been no further queries from IATA and IATA chose not to participate in the AUCC meeting held for the New South Parallel Runway ('NSPR') and associated projects as well as for Terminal T2, Phase 1. IATA bringing up questions on those capex decisions is not in the spirit of the aviation industry growth in India. It is suggested that IATA take AUCCs with due seriousness and provide quality inputs in the forum (AUCC) as enabled by the regulator and the operator.

IATA has mentioned that without information on costs and benefits of projects, stakeholder consultations are ineffective and leave the airline community extremely frustrated regarding their ability to provide informed feedback to the airports. IATA has specifically requested a response to letter sent to the Managing Director of BIAL in December 2017 requesting a consultation.

"...IATA has requested the Authority to scrutinize sustaining capex / special repairs costs incurred by KIAB in FY 2016-17 and FY 2017-18 of approx. Rs. 200 crore per annum and suggested that BIAL consults stakeholders for amounts exceeding Rs. 50 crore.

KIAB is witnessing exponential traffic growth, and it is expected that the traffic will continue to grow significantly over the next decade. Thus, maximising the utilisation of the existing airside, terminal and landside capacities through various measures until the proposed Terminal T2, Phase 1 becomes operational. Further, KIAB is also investing in replenishment /refurbishment / upgradation of existing assets and requests the Authority to note that the initial phase of development has completed ten years of operation and requires additional investment for sustenance.

The sustaining capex/special repairs/minor projects were considered to cater to this growth and hence past expenses cannot be considered as the basis for estimating sustaining capex expenses in the coming years. Also, BIAL has carried out detailed "bottom-up" projections while arriving at the cost estimates and these have been submitted to Authority, which is part of Annexure 4 of the CP. BIAL has always followed the AUCC Consultation Process and conducted the AUCC meetings wherever mandated.

IATA has requested for a business case of the terminal project to be shared and reviewed in consultation with airport users. The Authority has provided Consultation Protocols (AUCC) for capital expenditure projects which comprehensively covers the business case and this has been complied with by BIAL for terminal project. Further, IATA has requested an AUCC consultation process regarding terminal design concepts, passenger flows, capacity and demand analysis and a review of capital costs. BIAL's stakeholder consultation for the T2 project considered all the above requirements stated by IATA. Further, in addition to above *requirement, BIAL proactively has undertaken two intensive workshops with IATA as explained above.*

IATA has requested for options, costs and benefits to be shared via a business case demonstrating a return on investment for users for the Eastern Tunnel Connectivity project and has also questioned its requirement of the project citing the example of London's Heathrow airport ('LHR'). BIAL submits that it has already shared details on the Eastern Tunnel Connectivity project in June 2018, where the document contained a need identification (business justification), options development, assessment of alternatives, project cost and risk assessment and mitigation measures. The Phase 2 work cost estimate is being provided as a tentative cost. BIAL will approach the AUCC separately for Stage 3 for the Phase 2 work. IATA has quoted example of connectivity of LHR, which has a single access tunnel and expected BIAL to explore the management of airport with not more than one access. The IATA's approach of singling out one airport example of LHR and expecting BIAL to justify its own requirement of having multiple access of connectivity to airport is unfair and not practical. Different airports have different traffic and connectivity requirements, which have to be critically evaluated by each individual airport and expecting BIAL to justify the need for a tunnel (or any other infrastructure requirements) vis-a- vis LHR is impractical.

However, with specific reference to LHR, we would like to bring to IATA's notice that LHR has a significant transfer passenger percentage (~50% of total traffic), unlike KIAB which is primarily an origin-destination (O-D) airport. The tunnel at LHR only serves terminals 2 (T2) and 3 (T3). British Airways, which is the largest carrier at LHR is located almost entirely in T5 with separate landside access not relying on the tunnel serving the Central Terminal Area. Further, Terminal T4 catering to Skyteam traffic has separate access and not dependent on tunnel. Additionally, a large %age of public travelling to LHR, use public transport (around 40% currently) which is not the case at KIAB. While IATA has participated in the AUCC consultation for the above project, it has not raised any observation with reference to LHR (or any other airport), nor has IATA raised any queries on the requirement of the project. BIAL has always been transparent and has engaged pro-actively with the airline community (including IATA), the Ministry, GoK, and various other stakeholders and has a balanced approach towards capacity development to meet forecast demand at reasonable cost.

IATA has agreed with the Authority's proposal to map project costs in BIAL's business plans with normative benchmarks and to review these costs by a study conducted through an independent consultant. It has also recommended capping BIAL's project cost at Rs. 10,471 crore that was determined by the Authority.

The Authority appointed independent consultant ('RITES') for analysis of capital expenditure on expansion for Bangalore airport for the Second Control Period. While BIAL has considered *the report of RITES in terms of overall capital expenditure approval process, BIAL reserves its right to challenge the RITES report. BIAL has made a detailed submission in its response to CP explaining that market discovery of price is a complex process, and it may not be possible to determine efficient costs prior to the actual competitive bidding process. Also, the actual project cost is dependent upon a range of factors such as the cost of raw materials etc. which are beyond the control of an airport operator. The submissions also provide reasons why the Authority must not cap the project cost of BIAL at 10% above the Authority's estimates and explains the measures BIAL is taking to execute its projects efficiently and at an optimum cost...*

...We received an e-mail from the Airline Operators Committee dated 01.11.2017, wherein general inputs were provided such as consideration for separate access for premium passengers, requirement of consideration of individual growth of airlines while arriving at overall passenger growth, media reports on re-opening of Hindustan Airport (HAL Airport) etc. were mentioned. BIAL in its response to the e-mail, acknowledged the receipt of the e-mail and all considered their inputs, to the extent they were relevant for the T2 project....."

9.4.2 BIAL has agreed with the comments made by AOC, APAO, AISATS, IOSL, GoK and Menzies.

9.4.3 On BPAC's comments, BIAL has submitted as follows:

"...6) B.PAC has requested the Authority to direct BIAL to furnish a further breakup of the estimated cost of the proposed Eastern Tunnel and suggested that the same be validated for design and cost by an independent organization like RITES.

7) In response, BIAL would like to submit that it has conducted the AUCC for need identification, options development and detailed design for Phase 1 on 22.06.2018. The Phase 2 work cost estimate is being provided as a tentative cost. BIAL will approach the AUCC separately for Stage 3 for the Phase 2 work.

8) B.PAC has requested the Authority to direct BIAL to keep aside the positive cash flow generated from higher UDF collections in a separate fund and utilize the same for its additional projects such as cost of metro connectivity and Eastern tunnel connectivity.

9) BIAL submits that regarding collection and utilization to refer the submission made in point 58 para 2. Further, as part of MYTP submission and tariff determination process all the future expansion projects including Eastern tunnel connectivity project will be considered appropriately in the tariff proposal for consideration of the Authority.

Since metro connectivity is not part of the current tariff determination exercise for the Second Control Period, BIAL chooses not to respond on the funding and charges that need to be collected for the same...

Proposal 7: BIAL notes that B.PAC sought details from BIAL on the difference of Rs. 1,770 crores between BIAL's proposed capital expenditure (Rs. 10,038 crore) and the estimates provided by RITES in its evaluation report (Rs. 8,268 crore).

BIAL would like to submit that these details regarding the costs allowed, disallowed and the rationale for doing so has been provided in the RITES report annexed with the CP.

Proposal 8: – In response, BIAL reiterates its submissions made in response to the CP

9.4.4 On Sanjeev V Dyamannavar's comments, the following has been submitted:

"...The Respondent states that with KIAB planning to handle 40-50 million passengers, during 2005 itself, either GoK or its management should have given serious thought and moved on mass public transport to ensure no congestion happens at the airport terminal as has been followed in all major international airports.

The connectivity and transportation issues come under the purview of the State Government and BIAL coordinates with GoK for ensuring mass public transport. Currently, more than 250 BMTC buses ply daily to the airport for passenger commute. In Dec 2017, the GoK has cleared the line for metro connectivity to the airport, which should address the mass public transportation issues.

Respondent has commented that the metro connectivity proposed to be provided by BMRCL would cost Rs. 1,000 crore, which would further burden the passengers. Further, Respondent states that after the metro line is operational, all passengers travelling to and from the airport metro line should be charged a premium service charge by way of higher ticket fares, which will reduce UDF burden on passengers. BIAL submits that the proposal of metro connectivity is not part of the MYTP submission of BIAL for the Second Control Period and does not form part of its tariff determination.

Respondent has requested for suburban rail connectivity to the airport. BIAL wishes to submit that the decision for suburban railway is a subject matter of the Railway Board and BIAL cannot comment on the same.

Respondent submits that KIAB has already claimed the cost of building the Trumpet flyover and treated it as an aeronautical asset and airport passengers are forced to pay the Trumpet flyover cost through UDF during First Control Period, which was unfair and now further recovery is proposed from passengers for Metro and Tunnel. BIAL wishes to submit that the trumpet is only single access connectivity to the KIAB and BIAL was forced to undertake investment for connectivity from airport to National Highway (known as trumpet interchange) as the airport opening date was fast approaching. The same is forming part of aero assets of BIAL.

Respondent has suggested redesigning the tunnel such that its costs are lower. BIAL submits that it has conducted the AUCC for need identification, options development and detailed *design for Phase 1 on 22.06.2018. The Phase 2 work cost estimate is being provided as a tentative cost. BIAL will approach the AUCC separately for Stage 3 for the Phase 2 work. Respondent has suggested that BIAL should exercise the option of additional connectivity through Devanahalli rather than spending on the Eastern Tunnel Connectivity. BIAL submits that it has already discussed reasons why the alternative of north connectivity from Devanahalli is not appropriate for KIAB during the AUCC stakeholder consultation meeting. The north connectivity option would eventually connect to the main access road and not cater to the needs of traffic coming from south and east of Bengaluru...."*

9.5 BIAL's comments on Authority's analysis on Capital Expenditure

9.5.1 BIAL has submitted as follows:

"On Authority's proposal to exclude capitalisation of Terminal T2 in the RAB for the second Control Period.

......

BIAL's Response: - *The Authority has considered capitalization of T2 – Phase 1 for Third Control Period (FY 2021-22) as against the capitalization considered by BIAL in FY 2020-21; i.e. in the Second Control Period. BIAL would like to submit that it has completed detailed design of the project and the RFP for EPC Contract for civil, services, roof, façade, and other major systems has already been floated. BIAL has proceeded for tender on an EPC lump sum basis at the completion of the Detailed Design stage instead of at the completion of the schematic design stage. This has significantly reduced design timelines for the EPC design phase.*

Also, in order the ensure that the work is completed on time, all critical work elements are made as part of the EPC lump sum scope such that there is a single point of responsibility, thereby minimizing co-ordination and interfacing issues. Currently the EOI and RFP for EPC procurement have already been floated by BIAL with commercial evaluation due by September 2018 and award of works due by early first week of October 2018.

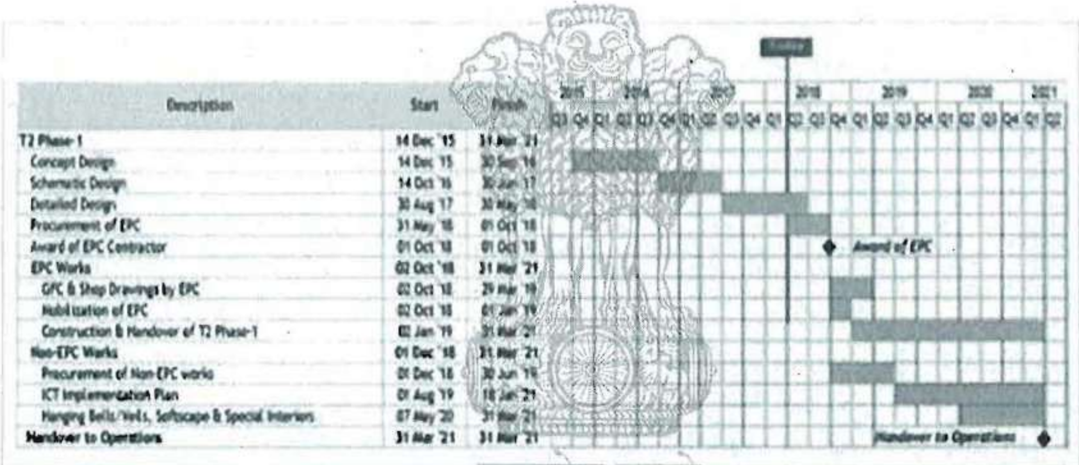
Further, BIAL has been using various technology initiatives to improve the performance of the airport both during construction as well as operations. BIAL plans to adopt latest construction technologies such as Building Information Modelling - BIM (for clash analysis, project reporting purposes), modern document control systems, sophisticated scheduling and monitoring systems for ensuring timely decision making, robust quality and safety systems. Lastly, BIAL has appointed Turner Project Management consultants as the PMC for the PAL 1 works. They will bring global and local experts for fast tracking and achieving the T2 completion target.

Additionally, BIAL submits that DIAL had completed the construction and operationalization of 550,000 sq. m. T3 terminal in 37 months. Similarly, BIAL itself had competed Terminal 1

Expansion in 30 months duration. Given these reference timeframes, BIAL believes that it is well on course to operationalize the T2 terminal in this control period, as shown in Exhibit 1 below.

Accordingly, BIAL requests the Authority to consider the capitalization of T2 in March 2021 and include the asset while determining aeronautical charges for the Second Control Period.

Exhibit 1: Project Schedule for T2



BIAL's Submission: *- BIAL requests the Authority to consider the capitalization of T2 in March 2021 and include the asset as part of the RAB while determining aeronautical charges for the Second Control Period.*

On Authority's proposal to exclude the impact of Goods and Service Tax (GST) on the projected Capex....

BIAL's Response: *- BIAL notes that the Authority has acknowledged the change of indirect taxes applicable in the country. However, it has not allowed an increase in project cost of BIAL to incorporate the same. Mere acknowledgement of the fact and not considering the same while determining aeronautical charges i.e. leaving the same for a true-up at a later stage will cause a significant detrimental impact on the cash flows of BIAL.*

BIAL would request the Authority to recognize that it would need to incur GST on capital projects as a cash outflow, and unless the Authority considers it towards BIAL's capital expenditure while determining aeronautical charges, it will deteriorate BIAL's cash flow position during the Second Control Period, until it is allowed to recover the amount during the Third Control Period.

The Authority has taken a view that the amount will be considered for capitalization after considering the GST input credit. BIAL submits that it has already considered GST input credit and accordingly requested for a lower GST rate of ~13% compared to the actual rate of 18%. Detailed workings computing the net GST outflow of ~13% is provided...

Accordingly, the Authority is requested to consider the project cost as submitted by BIAL on account of the changing indirect tax regime.

BIAL's Submission: *- BIAL requests the Authority to consider the project cost submitted by BIAL, including the impact of GST on the project cost and not penalise BIAL in terms of significant cash flow issues. Any difference between the GST outflow allowed by the Authority and that incurred on actuals may be subjected to a true-up.*

On the matter of additional projects in the Airport User Consultative Committee ('AUCC') stage

BIAL's Submissions: *- BIAL would like to undertake the following additional projects in the Second Control Period:*

Eastern Tunnel Works *– The current NH 44 through the existing trumpet and through SW Connectivity road is the only external access available between airport terminal and Bangalore city. The expansion on NH 44 is not possible due to congestion at Hebbal flyover and due to land acquisition constraints. As per Bengaluru Metropolitan Region Development Authority (BMRDA) Structure Plan 2031, intense development is planned around east of Bangalore urban clusters / nodes. Significant other developments in the area e.g. commercial developments at Doddaballapura and Chikballapura, business parks, IT and hardware parks, KIADB aerospace parks etc. is expected to lead to additional traffic. Accordingly, BIAL has conducted a feasibility study to evaluate options for an alternate access and based on the study it is proposed that the Eastern Tunnel Access road would be feasible and make the airport more easily accessible for the eastern part of Bengaluru city. The construction of the Eastern Tunnel works involves the Phase 1- Early Works which includes construction of Tunnel below cross field taxiway (approximately 300m, only civil works).*

220/66 KV Substation - As per KERC, power supply needs to availed at 220KV for power loads above 20MVA. As a result of upcoming facilities, total estimated demand by FY 2020-21 (for aero assets) is likely to be ~33 MVA and the same by 2030 is likely to be ~55 MVA. BIAL pursued with KPTCL to provide up to ~33MVA of power at 66KV level, however, after multiple rounds of discussions, KPTCL has refused BIAL's request. Accordingly, BIAL will have to accept power at 220KV and would require a 220/66 KV Substation.

BIAL has completed the AUCC meeting on 22.06.2018 for both the above projects and the stakeholders have not raised objections to either of the projects. Accordingly, we would request the Authority to consider BIAL's submissions at the time of finalizing BIAL's aeronautical charges for the Second Control Period.

Treatment of Special Repairs and Sustaining Capital Expenditure

AERA's Treatment

As per CP, the Authority has stated as below with respect to the treatment of Special Repairs/ Sustaining Capital Expenditure:

....

***BIAL's Response - Other Sustaining Capex:-** KIAB is witnessing exponential traffic growth and has achieved traffic of ~ 27 million passengers in FY 2017-18. It is expected that the traffic at the airport will further continue to grow and thus maximising the utilisation of the existing terminal capacities through sweating out of assets is necessary to handle the growth till the proposed T2 – Phase 1 Terminal becomes operational.*

Facilities need to be augmented to manage the additional passengers and this has led to increase in sustaining capex. Additionally, initiatives such as Aadhar enabled entry and biometric boarding system ("Digi Yatra") are being developed in-line with directions from Ministry of Civil Aviation/ Bureau of Civil Aviation Security to use Aadhar and Biometric E-Boarding System to enhance Security and improve Passenger Experience at the Airport as part of the "Digi Yatra" program under the "Digital India" campaign.

BIAL has already submitted the detailed list of sustaining capex / special repairs / minor projects to the Authority, which is forming part of CP as Annexure 4. A need assessment for these capital expenditures was undertaken and a detailed breakup of sustaining capex, minor projects and special repairs individual line item-wise were provided to the Authority. We request the Authority to consider the same. BIAL would like to submit that its estimates for special repairs/ sustaining capital expenditure was based on detailed estimates of facility augmentation requirements.

Considering the above, the Authority should not proceed on an adhoc basis. The Authority's justification for considering special repairs at Rs. 200 crores per annum for FY 2018-19 to FY 2020-21 is based on the past trend, which is not a true reflection of the future. The Authority has also not given due consideration to BIAL's technical justifications or any specific justification its own treatment. This is likely to have an impact on airport operations and BIAL may not be able to handle the projected traffic if such capital expenditure is not undertaken. Further, this situation may also aggravate the cash flow deficit expected by BIAL.

***BIAL's Submission:** - BIAL request the Authority to consider special repairs / sustaining capital expenditure / minor projects based on BIAL's estimates and true-up the same at the time of tariff determination for the Third Control Period.*

On the matter of truing up the Regulatory Asset Base at the end of the Control period based on actuals and based on results of the study on reasonableness of the costs incurred as part of additions to RAB in First Control Period at the time of determination of tariff for the next control period and capping the true-up of Project Cost to 10%

AERA's Treatment: *- As per CP, the Authority has stated as below with respect to capping the true-up of Project Cost:*

....

BIAL's Response: *- BIAL submits that an appeal is pending against Order No.07/2016-17 in the matter of normative approach for capital costs regulation for major airports passed by the Authority. BIAL understands that Authority appointed RITES to examine the capital expenditure on expansion of BIAL and has considered the RITES report for Capital expenditure. BIAL does not agree with the contents of this report, and reserves its right to challenge the same. Without prejudice to the rights and contentions in the appeal pending on the normative approach adopted by the Authority, BIAL submits that it will endeavour to reduce costs and keep the capital expenditure low.*

Complexity of Price Discovery: *- BIAL request the Authority to appreciate that the Project Cost as computed prior to the implementation of the project is merely an estimate of expenditure to the incurred; and there is a probability that the market responds in a manner that is different from such initial estimates. Market discovery of price is a complex process, and it may not be possible to determine efficient costs prior to the actual competitive bidding. Also, the actual project cost is dependent upon a number of factors such as the cost of raw materials etc., which are beyond the control of an airport operator.*

Impact of the TDSAT Order on the Project Cost: -

Also, in the matter of DIAL's Tariff Order for First Control Period, the Hon'ble TDSAT has upheld the Authority's views that estimation of project cost can only be examined to see if it relates to approved costs and supported by auditor certificates. The Authority's legal counsel observed that "...such costs cannot be re-examined on the yardstick of efficient cost but has to be taken as the incurred cost only, as appearing in the duly certified books of accounts", which has been accepted by the Hon'ble TDSAT.

Practices and Technologies that would be adopted by BIAL

Further, BIAL assures the Authority that it will be efficient in incurring these costs and adopt robust practices for competitive bidding of project works. BIAL will endeavour to manage capital outlay within estimated project costs and will justify any significant deviations.

Moreover, BIAL plans to adopt latest construction technologies such as Building Information Modelling - BIM (for clash analysis, project reporting purposes), latest document control systems, latest scheduling and monitoring systems for ensuring timely decision making, robust quality and safety systems with a view towards reducing time and cost overruns. BIAL has also appointed Turner Project Management consultants as the PMC for the PAL 1 works for fast tracking and achieving completion targets.

BIAL's Submission

BIAL requests the Authority to remove a cap of 10% of the project cost for true-up and consider the actual project cost based on financial results, backed by auditor's certificates corroborating that these costs were actually incurred and pertained to approved projects. Further, BIAL assures the Authority of its best efforts to execute the projects within the prescribed cap of 10%. In the event BIAL's actual project costs exceed this cap, BIAL will provide the requisite justifications in support of the escalation.

9.6 Authority's examination of Stakeholders' comments on Capital Expenditure

9.6.1 The Authority has carefully evaluated the comments submitted by stakeholders and BIAL.

9.6.2 The Authority notes IATA's comments on the stakeholder consultation process and BIAL's response on the same.

9.6.3 The Authority notes that BIAL has responded that it does not agree with RITES report and reserves the right to challenge the same. The Authority notes that BIAL has not submitted any details / comments on the aspects of the RITES report that BIAL is not agreeable to and the reasons for the same. As part of the Consultation process, the Authority expects that BIAL will submit all its responses and submissions which BIAL has not done, as far as the response on RITES report.

9.6.4 The Authority notes BIAL's responses on various factors - mainly on date of commissioning of Terminal 2, GST costs, Sub-station, Tunnel works and other Sustaining Capital Expenditure. Authority's analysis on each of these are as given below:

9.6.5 The Authority has noted detailed submissions made by BIAL that Terminal 2 will be commissioned before March 2021. BIAL has submitted plans and estimates regarding the same and also has cited references of its past experience in constructing T-1 and T-1 expansion. The Authority has also sought the opinion on the same from RITES, the Consultant who opined that the Terminal Building works could be completed by March 2021, as estimated by BIAL. Based on the detailed explanation and justification provided by BIAL, the Authority decides to consider the capitalization year for T-2 Phase 1 as 2020-21. The Authority also notes that should BIAL fail to commission the same by March 2021, in addition to the normal True-up with carrying cost, 1% additional penalty, by way of reduction of the said value from ARR, will be imposed on BIAL. Also, additional Interest/ Financing allowance and Project Management Cost will not be considered if there is a delay in executing the Project beyond March 2021.

9.6.6 The Authority, in Consultation Paper had detailed its comments on GST. The Authority had noted that BIAL has submitted details on the additional cost on account of GST for which credit is not eligible for. The Authority accordingly decides to consider additional 4% as tax cost on an estimate basis for the purpose of estimating the capitalization values on all line items of the approved Capital Expenditure detailed in Table 25 for the purpose of computation of permitted Capital Expenditure estimate. This will be trued up based on actual credit availment and capitalization.

9.6.7 The Authority notes that BIAL has carried out Stakeholder consultation on sub-station and Eastern-Tunnel works. The Authority notes that BIAL has estimated Rs. 354 crore as cost of sub-station and the Eastern Tunnel works are estimated to cost over Rs. 1000 crores, as per the presentations made by BIAL in the stakeholder consultation meetings.

9.6.8 Based on the explanations provided and the stakeholder meeting undertaken, the Authority proposes to consider the Sub-station as part of the Sustaining Capital Expenditure estimate for capitalization. The Authority however notes that only Enabling works relating to the Eastern Tunnel are proposed to be carried out during the second control period. The Authority notes BIAL's noting in the presentation to AUCC stating that:

"(#) The Phase 1 can be put to use only after Phase 2 completion"

Meaning that the enabling works can be put to use only after the Tunnel works are fully completed. The Authority accordingly decides that it may not be appropriate to consider enabling works for Eastern Tunnel as part of Capital Expenditure for addition to RAB during the second control period.

9.6.9 The Authority has noted BIAL's comments on not considering other items of Sustaining Capital Expenditure. The Authority notes that the Authority has already considered an estimate of approx. Rs. 200 crores per annum towards sustaining capital expenditure based on trend of 2016-17 and 2017-18. The Authority had also noted in the Consultation Paper that BIAL would need to consider and spend these costs prudently and the Authority will evaluate the same once these are incurred and capitalized based on evaluation of need and efficient costs being incurred. Hence, the Authority decides not to change the estimation of other items of Sustaining Capital Expenditure considered by it in the Consultation Paper. The Authority expects BIAL to keep a separate record of Special Repairs/ Sustaining Capital Expenditure for its review.

9.6.10 The Authority notes BIAL and certain other stakeholders' submission on the cap indicated by the Authority on the Capital Expenditure. The Authority notes IATA's comments to not permit any margin of change. The Authority notes that there could be instances of changes to the costs beyond the control of the Airport Operator. The Authority notes that the cap indicated by it is a reasonable caution for not spending beyond the evaluated levels. Should there be a justified reason for costs being higher than the cap provided, the Authority notes that the same should be justified in detail by BIAL with suitable explanations and documentation for Authority's review.

9.6.11 The Authority notes comments made by certain stakeholders on providing for sufficient cash to facilitate the Capital Expenditure and expansion. Authority's analysis on the same is listed in Para 19.6 below.

9.6.12 Based on the above, the Authority has recomputed the Capital Expenditure proposed to be included as part of the RAB for the second control period as below:

Table 27: Reworked Capital Expenditure decided to be considered as part of RAB for the second control period (Rs. Crores)

Project	Year of Capitalisation	Infra Cost	Financing allowance	Interest during Construction	Total addition to RAB	RAB - Aero	RAB - Non-Aero	Total Capitaln books	Captln - Aero	Captln - Non-Aero	Category	Aero Ratio	Non-Aero Ratio
Site preparation & Earthworks to Runway 2, Taxiway & Apron	2018	696.47	105.98	65.32	802.45	802.45	0.00	761.79	761.79	0.00	Buildings2-RW/TW	100 %	0%
Runway 2, Taxiway & Apron - Phase Ia	2020	1,286.92	194.33	164.29	1,481.25	1,481.25	0.00	1,451.21	1,451.21	0.00	Buildings2-RW/TW	100 %	0%
Runway 2, Taxiway & Apron - Phase II	2021	479.66	92.68	94.65	572.34	572.34	0.00	574.31	574.31	0.00	Buildings1-T,B,R	100 %	0%
Second Terminal - Phase I	2021	3,853.67	363.29	507.77	4,216.96	3,710.92	506.04	4,361.44	3,838.07	523.37	Buildings1-T,B,R	88%	12%
Forecourt roadways & landside development - Phase Ia	2021	374.56	56.95	65.22	431.52	392.68	38.84	439.78	400.20	39.58	Buildings1-T,B,R	91%	9%
Rescue & Fire Fighting	2019	7.93	0.46	0.18	8.39	8.39	0.00	8.11	8.11	0.00	PM3-Safety	100 %	0%
Airport Offices - Phase I	2018	65.27	0.00	0.00	65.27	59.40	5.87	65.27	59.40	5.87	Buildings1-T,B,R	91%	9%
Utilities - Phase Ia	2020	108.84	12.96	8.39	121.80	110.84	10.96	117.23	106.68	10.55	Buildings3-WMS	91%	9%
Existing runway / taxiway improvements - Phase 1a	2018	58.23	0.73	0.73	58.96	58.96	0.00	58.96	58.96	0.00	Buildings2-RW/TW	100 %	0%
Forecourt roadways & landside development - Phase Ib	2020	473.71	45.73	59.14	519.44	472.69	46.75	532.85	484.89	47.96	Buildings1-T,B,R	91%	9%
Forecourt roadways & landside development - Phase Ic	2019	285.00	4.57	9.80	289.57	263.50	26.06	294.79	268.26	26.53	Buildings1-T,B,R	91%	9%
Existing runway / taxiway improvements - Phase Ib	2021	86.64	0.00	5.66	86.64	86.64	0.00	92.30	92.30	0.00	Buildings2-RW/TW	100 %	0%
Terminal refurbishment	2017	79.99	4.09	0.01	84.08	76.51	7.57	80.00	72.80	7.20	Buildings1-T,B,R	91%	9%
Forecourts	2017	79.73	2.70	0.39	82.43	75.01	7.42	80.12	72.91	7.21	Buildings1-T,B,R	91%	9%
Sustaining capex - I	2017	65.12	2.66	0.38	67.78	61.68	6.10	65.50	59.60	5.89	Buildings1-T,B,R	91%	9%
Sustaining capex - II	2018	85.44	8.97	8.98	94.41	85.91	8.50	94.42	85.92	8.50	Buildings1-T,B,R	91%	9%
Total Infra Capitalisation		**8,087.19**	**896.08**	**990.90**	**8,983.27**	**8,319.17**	**664.10**	**9,078.09**	**8,395.42**	**682.67**			
Special Repairs and Refresh Capitalisation		1,219.44	0.00	44.87	1,219.44	1,091.87	127.57	1,264.31	1,132.09	132.22			
TOTAL		**9,306.63**	**896.08**	**1,035.77**	**10,202.71**	**9,411.04**	**791.67**	**10,342.40**	**9,527.51**	**814.89**			

Decision No. 6. Regarding Capital Expenditure

6.a. Based on the material before it and its analysis, the Authority decides:

i. To consider Capital Expenditure as per Table 27 Para 9.6.12 above to compute Average RAB and return to be considered in determining ARR.

ii. To ask BIAL to submit detailed explanation and justifications should the cost incurred exceed 10% over the cost approved by the Consultant.

iii. To review and true up the Project Management Cost after the project is commissioned based on a study of the actual cost incurred and its reasonableness.

iv. To true up the Capital Expenditure on actuals at the time of determination of tariff for the next control period.

v. To impose a penalty of 1% of the cost of Terminal-2 Phase 1, if BIAL fails to commission and capitalise Terminal-2 Phase 1 by March 2021. To not consider any additional Interest during construction (IDC)/ Financing allowance if the project is delayed beyond 31st March 2021.

10 Depreciation

10.1 BIAL's submissions on Depreciation

10.1.1 BIAL had submitted that depreciation on assets had been provided on the basis of Straight line Method (SLM) over the useful life of the asset estimated by the management where it believes that the useful lives represent the period over which it expects the use of the such assets.

10.1.2 BIAL had submitted that the value of assets considered for Depreciation i.e. additions to RAB and the methodology of depreciation proposed were in line with the prescriptions of Airport Guidelines namely:

10.1.2.1 Depreciation on assets at 100% of the original cost of the asset on straight line basis.

10.1.2.2 Depreciation on additions made at 50% of the applicable depreciation rate for the first year of addition.

10.1.3 The useful life for computation of rates considered by BIAL for key assets were as below:

Table 28: Useful lives and depreciation rates adopted by BIAL

Asset Type	Assets Covered	SLM %	No. of years
Buildings1-T,B,R	Building, Roads, Culverts, Apron	3.34%	30.00
Buildings2-RW/TW	Engineering structure: - Runway, Taxiway	5.00%	20.00
Buildings3-WMS	Water Management System	3.34%	30.00
PM1	Equip.-Airport/Comm /E&M/Office, Vehicles	10.34%	10.00
PM2-Lighting	Lighting	10.34%	10.00
PM3-Safety	Safety and Security	16.21%	6.00
PM4 - IT Equipment	IT equipments	16.21%	6.00
Software	Software	20.00%	5.00
ICT – Blended	ICT Future CapEx / Refresh	16.21%	6.00
FF	Furniture and Fixtures	6.33%	16.00
Intangibles	Preliminary Expenses, Goodwill etc.	3.33%	30.00

10.1.4 Accordingly, the total Depreciation considered by BIAL for the assets, under Hybrid Till, for the control period 2, considering the capital expenditure and RAB considered by BIAL was as listed below:

Table 29: Depreciation considered by BIAL for Second control period (Rs. Crores)

Asset Type	Covers	2017	2018	2019	2020	2021
Buildings1-T,B,R	Building,Roads,Culverts,Apron	74.25	85.69	97.95	115.00	230.71
Buildings2-RW/TW	Engineering structure :- Runway,Taxiway	6.11	32.76	59.46	107.89	159.39
Buildings3-WMS	Water Management System	3.72	3.76	3.86	6.17	8.42

Asset Type	Covers	2017	2018	2019	2020	2021
PM1	Equip.-Airport/Comm/E&M/Office,Vehicles	65.39	66.89	69.88	72.21	37.21
PM2-Lighting	Lighting	40.05	40.07	40.10	40.18	0.93
PM3-Safety	Safety and Security	18.13	18.13	6.17	2.15	2.15
PM4 - IT Equipment	IT eq.,	14.84	2.78	6.59	8.83	22.89
Software	Software	6.06	1.16	0.00	0.00	0.00
ICT – Blended	ICT Future CapEx / Refresh	0.00	0.00	0.00	0.00	20.67
FF	Furniture and Fixtures	7.16	7.16	7.16	7.16	7.16
Intangibles	Preliminary Expenses, Goodwill etc.	0.99	0.99	0.99	0.99	0.99
Total		236.70	259.38	292.14	360.56	490.52
	Aero Depreciation	213.15	233.80	271.92	335.26	465.31
	% of Aero Depreciation to total Depreciation	90.05%	90.14%	93.08%	92.98%	94.86%

10.1.5 BIAL had, on 25th April 2018 and 27th April 2018 submitted the computations relating to Extra shift depreciation and impact of changes to useful life in line with Authority's Order No. 35/ 2017-18.

"...KIA is a fast-growing airport and has witnessed rapid passenger growth and high air traffic movement. Airport specific equipment such as aero bridges, baggage handling system, escalators, elevators, travellite, HVAC equipments, cargo ASRS, ETV Equipment, X Ray machine, RT set, DFMD, HHMD, security equipment are continuously used and need maintenance. Being used in triple shift, these equipments undergo wear and tear and this reduces their useful life. BIAL wishes to submit that it would adopt lower useful life for certain assets used 24/7 on triple shift based on technical justification. Based on the above AERA Order and technical evaluation done, summary of changes in useful life of assets, and one-time impact to opening reserves are summarised in below table...."

10.1.6 BIAL had, as per its computations indicated that a total of Rs. 271.46 crores was additionally estimated to be charged to assets, including the one-time adjustment in 2018-19, due to change of useful life of certain categories of assets such as Plant & Machinery, Roads, Furniture & Fittings, etc.

10.2 Authority's analysis of Depreciation detailed in Consultation Paper

10.2.1 Authority on 12th Jan 2018 has issued Order No. 35/2017-18 (Order No. 35) on determination of useful life of the Airport assets, which would be effective from 1st April 2018.

10.2.2 Summary of comparatives on useful life adopted by BIAL and Order No. 35 is detailed below.

Table 30: Comparison of Useful lives as per BIAL and Order No. 35

Asset Type	Covers	No. of Years stated in the Order	No. of Years applied by BIAL

Asset Type	Covers	No. of Years stated in the Order	No. of Years applied by BIAL
Buildings1-T,B,R	Building	30 /60 years	30 years
	Roads	5 /10 years	30 years
	Apron	30 years	30 years
Buildings2-RW/TW	Runway	20 to 30 years	20 years
	Taxiway	20 to 30 years	20 years
PM1	Equip. - Airport	15 years	10 years
	Equip. - E&M	10 years	10 years
	Office Equipment	5 years	10 years
	Vehicles	8 years	10 years
PM2-Lighting	Lighting	10 years	10 years
PM3-Safety	Safety and Security	15 years	6 years
PM4 - IT Equipment	IT equipment	6 years	6 years
Software	Software	-	5 years
ICT – Blended	ICT Future CapEx / Refresh	6 years	6 years
FF	Furniture and Fixtures	7 years	16 years
Intangibles	Preliminary Expenses, Goodwill etc.	-	30 years

10.2.3 The Authority noted that in certain cases, BIAL had projected a higher useful life and in certain cases BIAL had projected a lower useful life as compared to Order No. 35. The Authority noted that BIAL had submitted its estimate regarding the same as detailed in Para 10.1.6 above. The Authority noted that this estimate included a charge for assets where useful life had ended and extra shift depreciation for certain asset categories. The Authority also noted that BIAL had considered useful life of 20 years for Runway and Taxiway along with considering certain unique assets at specific rates, which needed to be technically justified. The Authority proposed to consider the estimates as provide by BIAL for the purpose of considering depreciation and Average RAB for the consultation paper. The Authority asked BIAL to submit the complete calculations and relevant technical justifications and details for Authority's review, which would be evaluated and considered at the time of Order.

10.2.4 Authority noted that Land Development works had been considered for Capitalisation with useful life of 20 years. The Authority proposed to consider the same based on the lease period available with BIAL (50 years) and considered this as an adjustment to the depreciation rate estimates in the Consultation Paper.

10.2.5 Authority also noted, as detailed in MYTO-CP1 that AAI had appointed EIL as Independent Engineer for verification of Capital Expenditure incurred for Bangalore International Airport. The scope of works was to:

10.2.5.1 Study the overall Development plan / master plan indicating various airport facilities for BIAL.

10.2.5.2 Study for all drawings, specifications and procurement documents for cost assessment.

10.2.5.3 Carry out verifications to assess the cost incurred as per the various awarded works.

10.2.6 In MYTO-CP1, after deliberation on the material facts, Authority had decided to reduce opening RAB as of 24th May 2008 (the day of the commencement of Airport Operations) by Rs. 69.45 crores.

10.2.7 Authority noted that BIAL had not made adjustments towards the disallowance and had claimed depreciation on such assets. Authority proposed to carry out the adjustment in Opening RAB and the resultant adjustment in the depreciation.

10.2.8 The Authority had also made adjustment for Depreciation based on actuals for the past period.

10.2.9 The Depreciation recomputed by the Authority, considering changes to the Capital Expenditure and other factors, was as follows:

Table 31: Depreciation recomputed by the Authority detailed in Consultation Paper 05/ 2018-19 (Rs. Crores)

Asset Type	Covers	2017	2018	2019	2020	2021
Buildings1-T,B,R	Building,Roads,Culverts,Apron	74.23	83.02	94.41	109.22	134.21
Buildings2-RW/TW	Engineering structure :- Runway,Taxiway	6.11	25.43	44.79	80.13	117.97
Buildings3-WMS	Water Management System	3.72	3.72	3.77	5.80	7.78
PM1	Equip.-Airport/Comm/E&M/Office,Vehicles	65.39	65.39	67.68	89.30	68.49
PM2-Lighting	Lighting	18.75	40.05	40.05	40.13	22.18
PM3-Safety	Safety and Security	18.13	18.13	5.77	1.36	1.36
PM4 - IT Equipment	IT eq.,	14.84	0.00	1.04	3.28	4.47
Software	Software	6.06	1.16	0.00	0.00	0.00
ICT – Blended	ICT Future CapEx / Refresh	0.00	0.00	0.00	0.00	0.00
FF	Furniture and Fixtures	7.16	7.16	7.16	7.16	7.16
Intangibles	Preliminary Expenses, Goodwill etc.	0.99	0.99	0.99	0.99	0.99
Total		**215.38**	**245.04**	**265.65**	**337.36**	**364.61**
	% of Aero Depreciation to total Depreciation	89.20%	89.37%	91.97%	91.33%	93.59%
	Aero Depreciation	192.12	218.99	244.32	308.12	341.25
	Less: Adjustment EIL	-3.68	-3.68	-3.68	-3.68	-3.68
	Less: Adjustment for Development works			-9.00	-9.00	-9.00
	Add: Additional Depreciation as per BIAL – based on changes in useful life in line with Order No. 35			186.12	28.15	30.04

Asset Type	Covers	2017	2018	2019	2020	2021
	Aero Depreciation for RAB	188.44	215.31	417.76	323.59	358.61

10.2.10 Accordingly, the Authority proposed to consider the recomputed depreciation for the purpose of computing Average RAB and review of depreciation. Authority proposed to true up the depreciation based on actual costs incurred and re-compute depreciation based on Order No.35 at the end of the current control period, and true up the same.

10.3 Stakeholders' comments on Authority's analysis on Depreciation

10.3.1 IATA has stated the following:

"...IATA commends AERA for enforcing a more reasonable approach to depreciation than what has been proposed by BIAL. We would appreciate for AERA's confirmation that the allocation adjustments (as mentioned by AERA in proposal 6) have also been taken into account when determining the aeronautical portion of depreciation. We would also appreciate further elaboration on the "additional depreciation as per BIAL – Aero" on table 32 (in particular, on the need for a "one time" adjustment of Rs.186.12 crore for 2018-19) ..."

10.3.2 CCS has stated the following:

"...To consider re-computing of depreciation for computing Average RAB Safety and Security – Why is the depreciation running so low (from 18.13 to 1.36) IT Equipment – 14.84 to 4.47..."

10.3.3 Sanjeev V Dyamannavar (Respondent) has stated the following:

*"...**Depreciation amount:** As depreciation is been provided as per norms for Airport Assets, there need clarity on how these Depreciation funds are managed by KIAL. Depreciation amount is quite high (2017 YR: INR 188 Cr, YR 2018 : 215 Cr, YR 2019 : INR 417 Cr, YR 2020 : INR 323 Cr YR 2021 : INR 358 Cr)..."*

10.4 BIAL's response to Stakeholders' comments on Authority's analysis of Depreciation

10.4.1 On IATA's comments, BIAL has submitted as follows:

".....IATA would like the Authority's confirmation that the asset allocation adjustments (as mentioned by the Authority in Proposal 6 of the CP) have been considered while determining aeronautical depreciation. IATA has further requested the Authority to elaborate on the need for a "one time" adjustment of Rs.186.12 crore in FY 2018-19.

The Authority has issued an Order No. 35/2017-18 in the matter of determination of Useful life of Airport Assets. Based on this Order BIAL has carried out a one-time adjustment and provided the details to the Authority. Also, all necessary details regarding the allocation of assets and corresponding depreciation amounts were provided as part of the MYTP *submission to the Authority. BIAL is of the view that the Authority appropriately considers these details and suitably included for tariff determination as per the details provided in the CP….."*

10.4.2 On CCS comments, BIAL has responded as follows:

"….In response to the request of CCS to consider re-computation of depreciation for estimating Average RAB, BIAL would like to submit that the depreciation value with respect to Safety and Security and IT equipment refers to actual depreciation, which are being capitalised and considered in the books….."

10.4.3 On Sanjeev V Dyamannavar comments, BIAL has submitted as follows:

"…..Respondent has commented that the depreciation amount is "quite high" and has requested for clarity on how funds acquired as a result of depreciation are managed. The Authority allows depreciation as per its regulatory framework and the funds are ploughed into funding the airport business and operations….."

10.5 BIAL's comments on Authority's analysis on Depreciation

10.5.1 BIAL has submitted as follows:

"Treatment of Land Development Works

***AERA's Treatment:** …….*

***BIAL's Response:** - BIAL has undertaken land development works for various projects including New South Parallel Runway (NSPR). BIAL had considered capitalization of land development works separately. However, as opined by BIAL's statutory auditor, the land development works (earthworks) should be capitalized along with NSPR Project. Hence, BIAL would request the Authority to consider the expense on Land Development Works as a capital work-in-progress and consider for capitalization with NSPR."*

10.6 Authority's examination of Stakeholders' comments on Depreciation

10.6.1 The Authority has carefully reviewed comments submitted by BIAL and other stakeholders.

10.6.2 The Authority notes IATA's query on Depreciation and BIAL's submissions on the same.

10.6.3 The Authority notes that BIAL has submitted the Technical justification on useful life of certain assets, from a Technical valuer as part of stakeholder comments. The Authority notes that these would be evaluated and considered by the Statutory Auditors in the annual financial statements of BIAL for the year ended 31st March 2019.

10.6.4 The Authority had also sought and reviewed the technical specifications of the Runway and Taxiway constructed. The Authority notes that BIAL had stated 30 years as the design life for the proposed Runway and Taxiway and 20 years to be the design life for existing Runway and Taxiway based on which BIAL had considered 20 years as design life for Runways and

Taxiways. The Authority notes that design of the Runway and Taxiways is similar to that of other airports and has therefore decided to change the useful life of these existing assets to 30 years and consider this change prospective from 1st April 2018 as per Companies' Act.

10.6.5 Based on the analysis of the above comments, changes to RAB and Capital Expenditure as detailed in other chapters of this Order, the revised depreciation is calculated by the Authority as under:

Table 32: Recomputed Depreciation decided to be considered as part of ARR for the second control period (Rs. Crores)

Asset Type	Covers	2017	2018	2019	2020	2021
Buildings1-T,B,R	Building, Roads, Culverts, Apron	74.23	83.05	94.77	110.31	196.77
Buildings2-RW/TW	Engineering structure:- Runway, Taxiway	6.11	7.59	19.49	57.66	84.20
Buildings3-WMS	Water Management System	3.72	3.72	3.77	5.86	7.90
PM1	Equip.-Airport/Comm/E&M/Office, Vehicles	65.39	65.39	67.68	89.30	91.12
PM2-Lighting	Lighting	18.75	40.05	40.05	40.13	22.18
PM3-Safety	Safety and Security	18.13	18.13	5.77	1.36	1.36
PM4 - IT Equipment	IT eq.,	14.84	0.00	1.04	3.28	4.47
Software	Software	6.06	1.16	0.00	0.00	0.00
ICT - Blended	ICT Future CapEx / Refresh	0.00	0.00	0.00	0.00	46.27
FF	Furniture and Fixtures	7.16	7.16	7.16	7.16	7.16
Intangibles	Preliminary Expenses, Goodwill etc.	0.99	0.99	0.99	0.99	0.99
Total		**215.38**	**227.23**	**240.71**	**316.04**	**462.42**
% of Aero Depreciation to total Depreciation		89.20%	89.37%	89.79%	91.69%	93.79%
Aero Depreciation		192.12	203.08	216.13	289.77	433.69
Less: Adjustment EIL		-3.68	-3.68	-3.68	-3.68	-3.68
Less: Adjustment for Development works				-4.50	-9.00	-9.00
Add: Additional Depreciation as per BIAL - Aeronautical				186.12	28.15	30.04
Aero Depreciation for RAB		188.44	199.40	394.07	305.24	451.05

Decision No. 7. Regarding Depreciation

7.a. Based on the material before it and its analysis, the Authority decides:

- **i. To consider depreciation as per Table 32 Para 10.6.5 above to compute Average RAB and depreciation to be considered in ARR.**
- **ii. To true up the Depreciation based on the actual Capital Expenditure and other factors as per the Order No. 35 on Useful lives, at the time of determination of tariff for the next control period.**

11 Regulatory Asset Base (RAB)

11.1 BIAL's submission on Regulatory Asset Base for the second control period

11.1.1 Based on the above Capital Expenditure and Depreciation, average RAB computed by BIAL for the second control period under Hybrid Till was as given below:

Table 33: Average RAB computation as per BIAL, under Hybrid Till (Rs. Crores)

RAB under Hybrid Till as per BIAL	2017	2018	2019	2020	2021
Opening RAB	2274.48	2275.57	3580.48	3625.93	6049.96
Additions during the year	214.24	1538.71	317.37	2759.29	6366.41
Depreciation during the year	213.15	233.80	271.92	335.26	465.31
Closing RAB	2275.57	3580.48	3625.93	6049.96	11951.06
Average RAB	2275.02	2928.03	3603.21	4837.95	9000.51

11.2 Authority's analysis of Regulatory Asset Base detailed in the Consultation Paper

11.2.1 The Authority's individual assessment of Capital Expenditure, Land and Depreciation were as detailed in earlier paragraphs.

11.2.2 The Authority had commissioned a study to evaluate the reasonableness of the costs incurred as part of additions to RAB in first control period. The Authority had noted in the Consultation Paper that it would consider the results of the study, when available and consider appropriate adjustments to RAB, if required. (Refer Para 11.6.4.1 below for further analysis on the same)

11.2.3 The Authority had, in MYTO-CP1 Paras 10.34 to 10.41 considered the report submitted by Engineers India Limited (EIL) whereby Rs. 69.45 Crores was reduced from Opening RAB. The Authority proposed to continue with the adjustment for the purpose of arriving at Opening RAB for the second control period also.

11.2.4 Considering the above, the Authority's computation of Average RAB under Shared Revenue Till (considering allocation of assets between Aeronautical and Non-Aeronautical services and Capital Expenditure proposed to be included in RAB as per Authority's analysis) was as given below:

Table 34: Recomputed Average RAB as per Authority under Hybrid Till detailed in Consultation Paper 05/ 2018-19 (Rs. Crores)

Particulars	2017	2018	2019	2020	2021
Opening RAB	2,224.29	2,249.05	3,071.86	3,051.85	5,056.70
Additions during the year	213.20	1,038.13	397.75	2,328.43	1,106.54
Depreciation during the year	188.44	215.31	417.76	323.59	358.61
Closing RAB	2,249.05	3,071.86	3,051.85	5,056.70	5,804.63
Average RAB	2,236.67	2,660.45	3,061.86	4,054.27	5,430.66

11.3 Stakeholders' comments on Authority's analysis of Regulatory Asset Base

11.3.1 International Air Transport Association (IATA) has stated the following:

"...On the basis of the comments stated on proposal 6, we believe the aeronautical RAB to be overestimated, and request AERA to review its cost allocation methodology..."

11.3.2 Association of Private Airport Operators (APAO) has stated the following:

"...It has been observed that the Authority has proposed to consider a reduction of Rs 69.45 crore in the initial project cost based on the findings of the report submitted by the Engineers India Limited (EIL). In the EIL report it has been observed that BIAL's overall costs appear to be in order and undertaking comparison of the cost incurred with respect to the market rates is a complex activity.

Further, we would like to highlight that there seems to be an unfair consideration of only those costs differentials wherein the actual costs incurred by BIAL exceed the EIL estimates. These differentials were not set off against those wherein BIAL's incurred costs were lower than EIL's estimates.

In fact even in the TDSAT Order, the Tribunal has held the Authority's plea that any estimation of project cost can only be examined to see if it relates to approve costs and supported by auditor certificates. The Authority's submission which stated that"...such costs cannot be re-examined on the yardstick of efficient cost but has to be taken as the incurred cost only, as appearing in the duly certified books of accounts", has been accepted by the Tribunal.

Also in the TDSAT Order, the Tribunal has accepted the Authority's position that costs need to be taken as incurred costs and should not be re-examined on the yardstick of efficient costs as has been mentioned earlier in our submission. Therefore, by relying on a post-facto report submitted by EIL that attempts to estimate cost-efficiency, the Authority is going against not just its own stated position in the Tribunal but also against the Order issued by the Tribunal.

Accordingly, we would request the Authority to maintain consistency in its regulatory treatment and positions and consider the project costs as submitted by BIAL supported by auditor certificates..."

11.4 BIAL's response to Stakeholders' comments on Authority's analysis of Regulatory Asset Base

11.4.1 On IATA's comments, BIAL has submitted as follows:

"IATA believes the aeronautical RAB of BIAL to be overestimated and requests the Authority to review its cost allocation methodology.

Vide its responses to the CP, BIAL has responded on the asset allocation for Opening RAB, Terminal T2 and the Authority's proposal to carry out a technical study for the allocation of T2 once the same is operationalized. Accordingly, BIAL disagrees with IATA's comment that BIAL's aeronautical RAB is overestimated on account of its allocation ratio."

11.4.2 BIAL has concurred with APAO comments.

11.5 BIAL's comments on Authority's analysis on Regulatory Asset Base

11.5.1 BIAL has submitted as follows:

".....On the matter of reduction in Opening RAB based on Engineers India Ltd ('EIL') Report and AERA's Treatment thereon

....

***BIAL's Response:-** Interpretation of the EIL Report*

EIL in its report at Paragraph 11, concludes that, "... The overall impact with respect to the cost of the project may seem to be minor in nature....". EIL report also concludes with respect to a large number of items that, "...costs are less than or equal to normal costs...". In case expenditure incurred is more than costs estimated by EIL, EIL has provided a calculation of the differential. The observation of EIL is relatable only to such costs, which are more than the estimates of EIL. Whereas, if cost incurred is less than or equal to costs estimated by EIL, the differential is not even set out.

Moreover, as stated above, EIL concludes that the overall impact with respect to cost of the project is minor in nature. The statutory auditors of BIAL have accepted the project costs. The Board has also adopted it. BIAL therefore, respectfully submits that no deductions be made on the basis of EIL's report.

Based on the above, there appears to be no reason for the Authority to disallow bonafide costs incurred by BIAL and penalise the airport operator.

***Impact of the TDSAT Order on the reductions from Opening RAB: -** Further, BIAL would also like to reiterate the holding in the TDSAT Order. In the proceedings, the Authority itself took a strong position stating that project costs should be examined for incurred cost as per available records and see that it relates to the approved and essential parts of the airport. The Authority's legal counsel maintained that costs should not be re-examined on the yardstick of efficient costs; and has to be taken as incurred costs as appearing in books of accounts. The position of the Authority was accepted by the Tribunal, which acknowledged that it was weighty and deserved acceptance. An extract from the aforementioned TDSAT Order has been presented below:*

"88. On the other hand, on behalf of AERA, Mr. Dhir has taken a firm stand that in the task of tariff determination, the project cost can be looked at from a narrow hole, only to examine the incurred cost as per available records and see that it relates to the approved

and essential parts of the Airport. According to him, this had to be done on the basis of accounts bearing certificates granted or approved by the Chartered Accountant. His clear stand is that such cost cannot be re- examined on the yardstick of efficient cost but has to be taken as the incurred cost only, as appearing in the duly certified books of accounts. This submission appears to be weighty and deserves acceptance."

Accordingly, disallowing bona-fide incurred project costs would be against the Authority's own stated position.

***BIAL's Submission:** - BIAL requests the Authority to maintain a consistent position in line with its own submission made before the Hon'ble TDSAT, and not disallow Rs. 69.45 crores of actual certified costs incurred by BIAL....."*

11.6 Authority's examination of Stakeholders' comments on Regulatory Asset Base

11.6.1 The Authority has carefully reviewed the comments made by Stakeholder and BIAL.

11.6.2 The Authority has responded to the matter of allocation of assets and its impact on RAB in other sections of this Order.

11.6.3 The Authority notes BIAL and APAO's comments regarding non-adjustment of excess expenditure as per EIL report and have cited TDSAT Order on the same. The Authority notes that the report of EIL along with the findings indicating that there was an excess spend was available to the Authority based on the study commissioned by one of the Shareholders viz. AAI and was appropriated considered by the Authority.

11.6.4 The Authority had commissioned a study for evaluation of costs incurred for Terminal-1 and has, after issue of Consultation Paper, obtained the report from RITES dated 21th August 2018. Key summary of findings listed out by RITES in their report are as follows:

11.6.4.1 Expansions carried out by BIAL were justified in view of the growth witnessed.

11.6.4.2 Specification of finishes and works are considered to be in order.

11.6.4.3 Costs incurred on expansion of Terminal Building is comparable with similar works undertaken at other Airports.

11.6.4.4 Costs incurred for other works – External Roof, VVIP Lounge etc. are considered reasonable.

11.6.4.5 Interest and Administrative costs have considerably increased due to delay in implementation of the project from 18 months to 30 months. Projects of this nature generally require 24 - 30 months for completion particularly when it is intended to be executed through EPC contract and the work is to be executed in operational airport environment. The delay is mainly on account of technical challenges faced during construction including additional field investigations, review of designs, additions, modifications etc.

11.6.5 The Authority notes that soft costs relating to Project Management and Administration as well as Interest Costs is on higher side. However, considering the RITES report justifying the delay from 18 months to 30 months the Authority will consider these cost as submitted by BIAL. The Authority is also of the view that study should be conducted to get a clearer view of the components of the cost incurred in a Project of this magnitude. The true up of the project cost will be done taking into account the finding of the study. Authority has sought for a CA certificate that these costs have been incurred and BIAL has submitted the same.

11.6.6 Considering the above comments, together with the analysis detailed on Capital Expenditure, Depreciation, Asset Allocation etc., revised RAB calculated by the Authority as under:

Table 35: Revised Regulatory Asset Base computed by the Authority for calculation of ARR for the second control period (Rs. Crores)

Particulars	2017	2018	2019	2020	2021
Opening RAB	2,224.29	2,249.05	2,376.22	3,197.94	5,318.60
Additions during the year	213.20	326.58	1,215.78	2,425.90	5,229.58
Depreciation during the year	188.44	199.40	394.07	305.24	451.05
Closing RAB	2,249.05	2,376.22	3,197.94	5,318.60	10,097.14
Average RAB	2,236.67	2,312.63	2,787.08	4,258.27	7,707.87

Decision No. 8. Regarding Regulatory Asset Base

8.a. Based on the material before it and its analysis, the Authority decides:

i. **To consider Regulatory Asset Base as given in Table 35 Para 11.6.6 above for the purpose of computation of Aggregate Revenue Requirement.**

ii. **To true up the Regulatory Asset Base at the end of the Control period based on actuals at the time of determination of tariff for the next control period.**

iii. **To commission a study to evaluate the quantum of Project Management and Administration costs for executing a project and consider the results at the time of true up at the beginning of the next control period.**

12 Operating Expenditure

12.1 BIAL's submission on Allocation of expenditure between Aeronautical and Non-Aeronautical services and Authority's analysis

12.1.1 BIAL had stated as follows:

> *"..The table below shows the allocation of Operating expenses into Aeronautical and Non-Aeronautical expenses. The basis for the allocation is given for each component of Operating Expenses. Broadly, the allocation has been done on the basis of auditor's reports for the last financial year FY 2015-16.*
>
> *The report of Auditors on Allocation of Expenses is attached as Annexure 9..."*

12.1.2 Expenses allocation ratio submitted by BIAL was as follows.

Table 36: Expenses Allocation ratio as per BIAL

Cost Element	FY 2013-14		FY 2014-15		FY 2015-16	
Personnel cost	94%	6%	95%	5%	95%	5%
Operations and Maintenance Cost	87%	13%	88%	12%	89%	11%
Marketing & Advertisement	87%	13%	93%	7%	95%	5%
General Administration Cost	96%	4%	98%	2%	99%	1%
Lease Rent	100%	0%	100%	0%	100%	0%
OMSA Fee	100%	0%	100%	0%	100%	0%
Utilities Cost (Net)	100%	0%	100%	0%	100%	0%
Insurance	91%	9%	91%	9%	91%	9%
Property tax	100%	0%	100%	0%	100%	0%

12.1.3 Authority had reviewed the basis of segregation of expenses between Aeronautical and Non-Aeronautical assets and expenditure submitted by BIAL. Authority had also carefully reviewed the certificate given by Statutory Auditor as detailed by BIAL.

12.1.4 The Authority noted that according to BIAL's submission, BIAL had appointed KPMG as its auditors for Asset allocation. Perusal of KPMG's opinion indicated that it was a "Report in connection with Agreed-upon procedures related to the Statement of allocation of expenses (excluding depreciation, finance costs and tax expenses) into Aeronautical and Non-Aeronautical"

12.1.5 However, KPMG had also indicated in its report that:

> *"...Because the procedures performed do not constitute either an audit or a review made in accordance with the generally accepted auditing standards in India, we do not express any assurance on the allocation of expenses between Aeronautical and Non-Aeronautical for the periods 31 March 2014, 31 March 2015 and 31 December 2015...."*

"..Had we performed additional procedures, an audit or a review in relation to the basis of allocation of expenses between Aeronautical and Non-Aeronautical, other matters might have come to our attention that would have been reported to you...."

12.1.6 Scope of auditors as specified in their certificate of "Agreed Upon Procedures" is reproduced below.

"...The agreed upon procedures to be performed on the Statement of allocation of expenses into Aeronautical and Non-Aeronautical for the years ended 31st March 2014, 31st March 2015 and period 31 December 2015 are as below:

- *Read the basis of allocation ("Annexure 3") which details the guidelines followed by the company for the allocation of expenses into Aeronautical and Non-Aeronautical;*
- *Trace the items of expenses to the audited financial statements and verify the methodology and samples for the periods ended 31 March 2014, 31 March 2013, 31 March 2014 and 31 March 2015 and 31 December 2015 on a test check basis and using the concept of Materiality for the allocation into Aeronautical and Non-Aeronautical on the basis of guidelines as enumerated in Annexure 3;*
- *For common expenses, trace the same to the basis of allocation as enumerated in the guidelines enumerated in Annexure 3; and*
- *Report the factual findings and the observations, if any based on the procedures performed..."*

12.1.7 The Authority understood that this was a standard paragraph to indicate that the auditor had not performed an Independent audit on the stated subject.

12.1.8 The Authority had also gone through the report of the auditors on segregation of expenses and noted that the auditors appeared to have carried out a check of the principles / methodology already established by BIAL for asset and cost allocation and had only validated the same with the financials and not carried out any independent study to classify the expenses between Aeronautical and Non-Aeronautical Services.

12.1.9 The Authority had gone through Annexure – 3 of the said certificates and noted that BIAL stated that personnel costs, operations and maintenance cost, marketing and advertisement expenses and general administration overheads had been classified based on department wise reports maintained by the company. The Annexure also listed down the various departments and stating whether the same was considered as Aero, Non-Aero or allocated between Aero and Non-Aero.

12.1.10 As many of the cost elements are driven by the ratio of personnel cost and personnel cost is one of the significant element of cost, Authority had sought for details of the personnel cost by department. Details provided by BIAL is as below:

Table 37: Department wise cost break-up provided by BIAL (Rs.)

S. No.	Particulars	FY 2014	FY 2015	FY 2016
1	Support Services	28,55,82,094	34,28,47,415	39,08,30,019
2	Commercial	5,22,13,067	3,17,48,366	5,22,26,921
3	Operations	39,11,79,525	42,28,80,040	43,50,07,510
4	Business Development, Marketing & Strategy	2,11,89,040	2,79,69,802	3,58,13,794
5	Engineering & Maintenance	15,35,46,519	17,12,56,305	18,43,35,176
	Grand Total	90,37,10,245	99,67,01,928	1,09,82,13,422

12.1.11 BIAL had submitted as follows:

"...Common costs under personnel expenses includes the salaries and related costs of ICT and Real estate departments who devote their time to both Aero and Non aero activities and under other heads includes events, promotion, administration and other costs, which are common in nature, is allocated in the ratio of Aero and Non Aero percentage of the respective heads, further commercial department's time is devoted on both Aero and Non Aero activities hence cost is allocated between Aero and Non Aero..."

12.1.12 From the above, considering S # 3,4,5 as Aero and 2 as Non-Aero, the Authority noted that the ratio of Aero cost to total is around 91.5% in 2013-14, 95% in 2014-15, 92.6% in 2015-16. The Authority noted that the allocation changes based on composition of teams. The Authority proposed to consider 90% of Personnel cost and General Administration cost as towards Aeronautical Services.

12.1.13 The Authority proposed to carry out a study on allocation of expenses between Aeronautical and Non-Aeronautical services and would consider truing up of the estimates for the current control period based on the results of the study at the commencement of next control period.

12.1.14 Recomputed Aeronautical Ratio of O&M expenses was as given below:

Table 38: Recomputed allocation ratio of Aeronautical Expenses to total expenses, category wise

Cost Element	% of cost considered as Aeronautical
Personnel cost	90%
Operations and Maintenance Cost	Based on asset ratio
Marketing & Advertisement - Others	85%
General Administration Cost	90%
Lease Rent, Property Tax	100%
Utilities Cost (Net)	100%
Insurance	91%

12.2 BIAL's submission on Operating Expenditure

12.2.1 BIAL in its submission dated 13th April 2017 provided the details of Operating and Maintenance expenditure. BIAL had submitted details of the above expenditure incurred for Control period 1 and proposed expenditure for Control period 2 in their submission. A summary of costs incurred towards Aero Operating expenses is detailed below:

Table 39: Aero Operating Expenses submitted by BIAL for first control period (Excl. Concession Fee) (Rs. Crores)

Operating Expenses - Past as per BIAL	2012	2013	2014	2015	2016
Personnel Expenses	67.21	77.70	87.92	98.61	107.37
Operations & Maintenance	34.91	45.18	43.11	51.03	53.57
Lease Rent	6.35	6.35	6.35	6.35	11.79
Utilities	21.90	22.86	24.76	36.06	39.90
Insurance	1.88	2.08	2.06	1.84	1.90
Rates & Taxes (other than IT)	0.78	0.22	13.01	27.15	13.32
Marketing and Advertising	5.67	4.86	11.43	6.27	7.62
Waivers & Bad Debts	0.00	47.51	0.00	0.00	1.87
CSR	0.00	0.00	0.00	0.00	1.16
OMSA Fee	7.84	6.64	9.99	15.05	2.65
General Administration Costs	20.30	20.89	24.12	22.97	23.69
Total Operating Expenses - Aero	**166.83**	**234.28**	**222.75**	**265.34**	**264.85**

Table 40: Operating Expenditure for second control period as submitted by BIAL (Excl. Concession Fee) (Rs. Crores)

Particulars	2017	2018	2019	2020	2021
Personnel Expenses	119.54	152.96	171.81	196.26	246.72
Operations & Maintenance	82.73	99.32	131.50	149.42	211.93
Lease Rent	13.03	13.42	13.83	14.24	14.67
Utilities	43.97	46.95	54.16	57.84	71.60
Insurance	3.54	4.54	5.36	6.23	9.11
Rates & Taxes (other than IT)	8.72	8.80	8.87	8.96	9.40
Marketing and Advertising	7.58	8.31	9.10	9.94	10.84
CSR	3.72	13.90	23.19	31.47	34.88
General Administration Costs					
- Consultancy and Legal	10.07	13.06	14.36	15.80	17.38
- Travel Costs	5.44	5.98	6.58	7.24	7.96
- Office Costs	11.07	12.17	13.39	14.73	16.20
Total Operating Expenses - Aero	**309.41**	**379.40**	**452.14**	**512.14**	**650.70**

12.2.2 BIAL had submitted as follows:

"...The Operating Expenses discussed in this section pertains to the Aeronautical Operating Expenses.

5.6.2 Personnel Costs

BIAL considers human resources as its strongest asset and recognizes the vital role being played by the employees of the organization in catering to the needs of the growth, expansion and successful operations. The headcount projections are based on the requirements for existing business and future expansion plans.

Employee headcount for the five years in Control Period 2 is detailed below:

Particulars	FY 2017	FY 2018	FY 2019	FY 2020	FY 2021
Total No. of Employees	816	914	936	959	959

Further, the additional headcount towards future expansion projects namely Airfield Development and Terminal & Associated Landside and Airside Development is estimated to be 235 and 467 respectively. These additions are planned to be hired in FY 2021 and FY 2022 respectively.

The table below represents the personnel cost for the Control Period 2 for Aeronautical business.

Personnel Cost (Rs. Crore)	FY 2017	FY 2018	FY 2019	FY 2020	FY 2021
Personnel Cost	119.5	153.0	171.8	196.3	246.7

Personnel cost is expected to increase at a CAGR of 19.86% over Control Period 2. This is due to the fact that there was no increase in manpower on account of expansion in Terminal 1 in Control Period 1. In order to maintain the quality of service provided by BIAL, it is important to increase the manpower with the increase in number of passengers. Hence, the Management of BIAL has assumed that due to passenger growth, there will be a corresponding need to increase the manpower. Furthermore, adequate manpower would need to be hired to manage the upcoming assets such as Airfield works – Runway 2, Apron, etc. and Terminal 2. The increase in manpower due to this has also been considered as part of the Business Plan.

Personnel cost relating to Aeronautical Services, has been derived based on a pre-determined allocation of Aero and Non-Aero in the total Personnel Cost. This is based on the number of employees directly related to Aeronautical services as defined by BIAL.

The increase in personnel cost also considers the competitive environment by addressing the attrition levels being currently experienced. The airport industry is unique and requires skilled talent and is maturing over the period of time. It is difficult to identify and hire trained manpower and hence there is a need to retain the existing skilled manpower. In order to enhance retention, it is assumed that every third year (starting from FY2017), there will be a 2% upward correction in the average CTC for all levels..."

12.2.3 On Operations and Maintenance, BIAL had submitted as follows:

"...5.6.3 Operations and Maintenance (O&M) Costs

BIAL is dedicated at ensuring that all operations and activities are supported by well-maintained machinery and equipment. The process setup at BIAL ensures state of the art maintenance comparable to international standards. To address the ever-evolving expectations, a separate Engineering & Maintenance department has been set up to ensure safe, efficient and smooth functioning of the Airport.

Engineering and maintenance department basically meets the requirements of infrastructure facilities on landside, airfield, utilities and maintenance of IT enabled services. The department looks after the complete repair and maintenance of airfield including runways, taxiways, aprons, parking bays, aerobridges, hangers, drains, general airfield upkeep, power sub-stations, water and waste management and all allied airside infrastructure for all the civil, electrical and mechanical works.

IT and ITES are handled by a separate department having specialized skill set which provides IT solutions for all the users at the airport.

Certain key areas call for round the clock support and maintenance viz., Airside planning, Airport Operation Control Centre (AOCC), Airfield Rescue Fire Fighting (ARFF), Baggage Handling Systems, Safety Health and environment, terminal operations and so on. O&M expenditure forecast for MYTP, relating to Aeronautical business is detailed below

Particulars (Rs. Crore)	FY 2017	FY 2018	FY 2019	FY 2020	FY 2021
O&M Expenditure	82.7	99.3	131.5	149.4	211.9

The O&M expenditure includes the operation and maintenance expenditure towards facilities at landside, airfield, utilities, ICT and others and is assumed as a percentage of the Gross Block.

On the other hand, the Airport would have completed 13 years of operation by the end of Control Period 2. Hence, it would be critical to replenish the assets to maintain the quality standards which BIAL has maintained so far..."

12.2.4 BIAL had submitted the following on Utility costs.

"... 5.6.4 Utilities Costs

Utility costs comprise of power and water costs. The Utilities Costs have been calculated after netting off the recoveries from the concessionaires. The Utilities Costs considered in the MYTP submitted for Control Period 2 relating to aeronautical services is given below:

Particulars (Rs. Crore)	FY 2017	FY 2018	FY 2019	FY 2020	FY 2021
Utilities Cost	44.0	46.9	54.2	57.8	71.6

12.2.5 BIAL had submitted the following on Concession Fee

"...4.6.5 Concession Fee

A Concession Agreement (CA) was entered into between Ministry of Civil Aviation, Government of India (GoI) and BIAL on 5th July 2004.

For the grant of concession, exclusive rights and privilege to carry out various activities as listed in the CA (Article-3), BIAL has to pay an annual fee 4% of annual gross revenue to the GoI. The payment terms, accounting, provisional payment, interest and taxes have been detailed in Article 3.3 of the CA.

As per the CA (Article 3.3.5), the concession fee is to be paid for the first 10 financial years from the airport opening date (AOD). This fee is to be paid in twenty equal half yearly instalments with the first such payment due and payable in the 11th financial year from AOD. The concession fee at a rate of 4% of the gross revenue payable has been considered and provided as year-on-year expenditure..."

12.2.6 BIAL had submitted the following on Lease Rent.

"...4.6.6 Lease Rent

The Land Lease Deed was executed between Karnataka State Industrial Investment and Development Corporation (KSIIDC) and Bangalore International Airport Limited (BIAL) on 30th April 2005. As part of this Deed, KSIIDC leased to BIAL, free from encumbrances and / or encroachments, of all that piece and parcel of land measuring 3,884 acres and 25 guntas and further agreed to lease out 133 acres and 16 guntas together with all rights, liberties, privileges, benefits, rights of way, paths, passages pertinent to the site to hold, possess, use and enjoy the site and or any part thereof, in accordance with the provisions of the Deed.

However, KSIIDC handed over the possession of 124 acres 6-guntas in the years 2006 & 2007 and subsequently an Additional Land Lease Deed dated 31st December 2011 has been executed and registered.

As per the Deed, the lease rent payable to KSIIDC is nominal lease rent of one rupee per annum up to AOD. After the AOD, the lease rent is calculated at a fixed percentage as per following schedule:

Period	Lease rent as a percentage share of land value
From AOD to beginning of 8th year	3%
For 8th year	6%
From 8th year onwards	Annual escalation at 3% of lease rental at end of previous year

Based on the above, Lease rent considered for Control Period 2 is given below:

Particulars	2017	2018	2019	2020	2021
Lease Rent	13.0	13.4	13.8	14.2	14.7

12.2.7 On General Administration and other costs, BIAL had submitted as follows:

"...The General Administration costs category majorly includes Consultancy & Legal Cost, Travel Costs, Office Costs, Insurance, Marketing and Advertisement, Rates and Taxes. These costs are incurred to meet the day-to-day running and administration of the airport.

The General Administration and other costs relating to the Aeronautical business is shown below:

Particulars (Rs. Crore)	2017	2018	2019	2020	2021
Consultancy and Legal	10.1	13.1	14.4	15.8	17.4
Travel Costs	5.4	6.0	6.6	7.2	8.0
Office Costs	11.1	12.2	13.4	14.7	16.2
Insurance	3.5	4.5	5.4	6.2	9.1
Rates & Taxes (other than IT)	8.7	8.8	8.9	9.0	9.4
Marketing and Advertising and others	11.3	22.2	32.3	41.4	45.7
Total	50.1	66.8	80.9	94.4	105.8

BIAL has begun to undertake various initiatives to enhance its passenger and cargo traffic – especially international traffic and embark on a digital journey. The underlying vision is to develop Bengaluru as the Gateway to South India and enhance its brand as the Silicon Valley of India, while at the same time align with the vision of the GoI of a 'Digital India'.

The initiatives include conducting roadshows, industry outreach programs, catchment area programmes and industry alignment meetings. BIAL is transforming the Kempegowda Airport into a smart airport, is embracing technology and embarking on a digital journey. This will further enhance the 'naturally easy experience' BIAL offers to its customers..."

12.3 Authority's analysis of Operating Expenditure detailed in Consultation Paper

12.3.1 Authority had carefully analysed each component of the Operating Expenditure. Authority's analysis of each head of expenditure was as follows:

Employee Cost

12.3.2 Authority had reviewed the Grade-wise headcount projected by BIAL and the details of costs considered per grade.

12.3.3 Authority noted that, based on the above, the Personnel cost computed is as follows:

Table 41: Salary cost computed for the second control period by BIAL (Rs. Crore)

Salary cost	FY 2017	FY 2018	FY 2019	FY 2020	FY 2021
Grade F	3.18	3.53	3.89	4.35	4.79
Grade E	11.07	18.21	20.04	22.44	24.68
Grade D	17.87	23.95	27.07	31.14	35.16
Grade C	34.25	41.97	47.39	54.45	70.06
Grade B	19.53	24.50	27.61	31.65	44.13
Grade A	8.42	9.55	10.74	12.36	19.20

Salary cost	FY 2017	FY 2018	FY 2019	FY 2020	FY 2021
Grade O	0.20	0.35	0.39	0.43	0.48
Other	6.95	7.79	8.72	9.77	10.94
Total	101.47	129.85	145.85	166.61	209.44
Add: - Incentives	14.21	18.18	20.42	23.32	29.32
Add: - Others (Staff Activities/Transport/Education/ Training etc.)	10.15	12.98	14.58	16.66	20.94
Total Personnel Expenses	125.83	161.01	180.85	206.59	259.71
Share of Aero	95.00%	95.00%	95.00%	95.00%	95.00%
Personnel Expenses - Aero	119.54	152.96	171.81	196.26	246.72

12.3.4 The Authority noted that salary cost had been projected with an annual increase listed above from the existing levels on a year on year basis for the control period 2 between 7% and 12%.

12.3.5 The Authority noted that the movement in employee cost over the past 5 years varies between 3% and 54%. Authority noted that BIAL had considered growth at 10 % YOY and every 3rd year additional 2% has been factored. The Authority enquired about these growth rates and trends considered by BIAL.

12.3.6 BIAL had submitted as follows:

> *"...Grade F: - Increase in CTC by 12% in FY 2017 is due to actual payout & by 11% in FY 2018 is due to budget projection for the year on salary increase for the grade*
> *Grade E: Increase in CTC by 54% in FY 2017 is due to hiring of expatriates in that grade.*
> *Grade others: Fluctuating payout is due to commission payouts to Managing Director..."*

12.3.7 The Authority proposed to moderate the increase in employee costs considering 10% increase from financial year 2018 onwards instead of increase in rate that had been proposed by BIAL.

12.3.8 The Authority noted that the increase in headcount for 2017 had been considered 30% & 8% for grade D (28 employees) & grade A (6 employees) respectively. The Authority also noted that 98 resources had been considered across various grades for 2018 and 235 employees were added for FY 2021. The Authority enquired about this increase in resources for 2017 and 2018 considered by BIAL. In addition, BIAL had also considered 14% YOY increase in staff variable pay and incentives of the Salary cost and 10% increase in staff welfare, transportation, training and other costs on the Salary costs.

12.3.9 BIAL had submitted as follows:

> *"... Grade B, D, C, A & O: Increase in resource strength due to carry forward/replacement of positions that were approved by Board previously but could not be hired. Marginal increase in % increase in strength to cater YoY increase in regular business growth.*

Incentives and Others: Increase in incentive and other Staff and training cost has been considered based on historical performance trend, which ranges around 14%-15% of CTC..."

12.3.10 The Authority proposed to reduce employee strength considering a maximum increase of 15% (Changes made to Grade D) for Phase 1. Also, for the expansion, Authority sought clarification on the number of resources considered and proposed to consider 50% of the increase submitted by BIAL in FY 2021 for the expansion (117 employees) and consider increase of 7 % towards incentive payments and 5% on other cost from financial year 2018 onwards and proposes to recalculate the projected Salary cost accordingly.

Operations and Maintenance Expenditure

12.3.11 Break-up of the Operating Expenditure proposed by BIAL is as follows:

Table 42: Operating Expenses break-down as estimated by BIAL (Rs. Crore)

Particulars	FY 2017	FY 2018	FY 2019	FY 2020	FY 2021
O&M Infra Running Costs - Aero	49.93	58.05	86.10	99.48	157.00
- Phase 1	49.93	54.92	60.41	66.45	73.10
- Phase 2	0.00	3.13	3.44	3.79	4.17
- Phase 3	0.00	0.00	22.24	29.24	79.73
O&M Costs - ICT - Phase 1- Aero	23.29	25.61	28.18	30.99	34.09
O&M Costs - Aero	9.52	15.66	17.23	18.95	20.84
Operations & Maintenance Total	82.73	99.32	131.50	149.42	211.93

12.3.12 Authority noted that BIAL had considered operating and maintenance (O&M) cost at certain percentage of the assets capitalized in books and additionally 10% increase in budgeted expenditure on a year on year basis. % value of asset considered for estimating Operating & Maintenance Expenditure is as follows:

Table 43: Phase-wise % of asset value considered as Operating Expenses by BIAL

Particulars	Landside	Airside	Utilities
Phase 1	1.50%	0.73%	1.71%
Phase 2	1.53%	0.73%	1.71%
Phase 3	1.92%	2.00%	2.96%

12.3.13 The Authority noted that there had been increase in % of the O&M cost on the asset base in Phase 3 compared to Phase 1 and 2 while actual expenditure in CP1 was lower than budgeted. Comparison of Budget Vs. Actuals is tabulated below.

Table 44: Comparison of cost projected versus cost incurred in CP1 (Rs. Crore)

Particulars	2012	2013	2014	2015	2016
Estimate for Control period 1	35.19	45.35	45.07	69.88	80.04

Particulars	2012	2013	2014	2015	2016
Actuals for Control period 1	34.91	45.18	43.11	51.03	53.57
Excess /(shortfall)	0.29	0.18	1.96	18.84	26.47

Authority noted that BIAL had also considered O&M cost towards phase 3, which was expected capitalization from FY-2019 onwards, as below.

Table 45: Aeronautical Asset expected to be capitalized in phase 2 & 3 as per BIAL – (Rs. Crore)

Particulars	2017	2018	2019	2020	2021
Phase 2					
Landside	-	204.60	204.60	204.60	204.60
Phase 3					
Landside	-	-	142.71	378.29	969.25
Airside	-	-	977.63	990.08	2,645.68
Utilities	-	-	-	-	107.92

12.3.14 Authority observed that significant cost capitalized for 2019 was towards site preparatory & Earthworks to Runway 2, which may not have a recurring maintenance cost. Also, Authority was of the view that asset during the capitalization period and 1st year would be covered by Manufacturers' warranty and may not require huge maintenance expenditure as projected by BIAL.

12.3.15 Authority noted that BIAL had considered increase of 65 % in FY 2018 on Other O&M Costs.

12.3.16 BIAL response for clarifications sought by the Authority on the O&M cost was as follows:

> *"...Increase in O&M cost at 10% in-spite of increase in wear & tear of assets with higher utilization due to increased traffic growth, which has direct bearing on the O&M cost.*
>
> *The O&M cost % for Phase 3 is arrived based on the O&M cost estimates and the infra O&M expenses are labour intensive and normally the annual increase in AMC is around 10% to 12% and the cost base has increased with sharp increase in minimum wages by around 25%-27%. Apart from these AMCs we have OEM / Proprietary item AMC's / CMC's. We are on single runway operationalized in May 2008 and faster ageing of the runway due to higher ATMs has resulted in increased frequency of maintenance of runway & taxiway thereby increases in O&M costs.*
>
> *Re-laying of existing runway and taxiways is considered in FY 2021 after second runway is operationalized. Due to capacity constraints there are certain equipment whose utilization is beyond design capacity thereby increasing the frequency of servicing resulting in higher O&M costs.*
>
> *Further, due to capacity constraints there are certain equipment which are out of support that are on maintenance support, also the estimates include certain onetime initiatives like hiring of cleaning machines, trumpet wall painting, hotline support for ALCS system, civil*

works on airside, airside vegetation management (regulatory requirement), Arrival-10 carousal with two in feed lines etc.

The increase in 'Other O&M costs' are mainly towards new initiatives / improved services to enhance customer experience like Self check-in kiosk on kerbside, customer engagement program for Airport community, VIP lounge expenses due to substantial increase in VIP movement, Trolley maintenance (increase in qty & ageing), manpower costs - trolley & landside parking, customs baggage clearance and custom stamping, Increase in minimum wages impact, Q-Managers, ARRF requirements, higher spares consumption..."

12.3.17 The Authority had gone through the clarifications provided by BIAL. The Authority also noted the increased growth in passenger traffic, ageing of Airport and need for higher maintenance. However, the Authority noted that BIAL had estimated a huge increase in O&M Expenditure across the second control period. Also, the Authority noted that BIAL had projected incurring Capital Expenditure for replacement of assets etc. where required. The Authority accordingly considered increase of 15% for estimating Operations and Maintenance Expenditure for the years 2017-18 to 2020-21 from the previous year's cost and proposed to recalculate the expenses accordingly. Actual costs incurred would be reviewed and trued up based on review of the expenses including need and justification of the costs incurred.

Lease Rentals

12.3.18 BIAL pays lease rent at 3% of the land value upto 23rd May 2015 and 6% of rental value in the 8th year and with a 3% escalation per annum thereafter, to GoK as per State Support Agreement and projections for control period 2 has been based on the Agreement.

12.3.19 Authority observed that BIAL had allocated 100% of lease rentals to Aeronautical expenditure. Authority understood that usage towards Non-Aero/ Airport would be a small percentage of the total lease land hence decided not to allocate any cost to Non-Aeronautical services.

Utilities

12.3.20 Authority understood that the Utility cost computations for the second control period are as below.

Table 46: Computation of Utilities Cost for second control period as per BIAL (Rs. Crores)

Particulars	2017	2018	2019	2020	2021
Power					
Power Costs – Consumption	58.30	62.38	72.72	77.81	88.96
Power Costs - Contracted Demand	2.51	2.51	2.51	2.51	5.02
Less: - Recovery					

Particulars	2017	2018	2019	2020	2021
Recovery towards demand charges	1.88	1.88	1.88	1.88	1.88
Recovery towards Power Costs	18.95	20.27	23.63	25.29	28.91
Net Power Cost	39.98	42.73	49.71	53.15	63.19
Water					
Potable Water Costs - Own Consumption	2.31	2.47	2.65	2.83	5.34
Potable Water Costs - Others' Consumption	2.83	3.02	3.24	3.46	7.17
Total Raw Water Costs	0.91	0.91	0.91	0.91	0.91
Recoveries					
Recovery - Potable Water Costs	2.06	2.20	2.35	2.52	5.00
Potable Water Costs – Aero	4.00	4.21	4.44	4.69	8.42
Utilities Total	43.97	46.95	54.16	57.84	71.60

12.3.21 Authority noted that BIAL had projected increase in water and power charges by 7% on a year on year basis and also there is increase in consumption of water for FY 2021 from 0.51 million KL to 0.95 million KL. Authority sought clarifications from BIAL.

12.3.22 BIAL response was as below:

"...Power - The average increase during CP 1 is 5%. The historical trend may not be true representative of future costs and hence conservatively assumed at 7% increase in Power cost for CP 2.

Potable Water - The revision in tariff by BWSSB is not done on yearly basis, but typically happens once in 2-3 years' timeframe. The last revision happened in FY16 and this resulted in an increase of 20% in FY 16. Given that the average increase in CP 1 is 6.4%, a nominal increase of 7% is forecasted for CP 2.

Increase in water: - In FY 2021, the South runway and Associated Works is expected to become operational. This will result in additional water consumption towards airside landscaping and vegetation maintenance apart from the increase in water consumption in airside buildings and allied infrastructures..."

12.3.23 The Authority proposed to moderate the increase in power and water charges by 5% per annum in line with the past trends and proposed to recalculate the expenses accordingly. Also, additional recoveries were made by BIAL from concessionaires, which were considered as Non-Aeronautical Revenues. The Authority proposed to net off such recoveries from Power and Water costs and consider the net cost as Utilities cost under Operations & Maintenance Expenditure.

Insurance cost

12.3.24 BIAL had taken Insurance under Industrial All Risks (IAR), AOL Policy, Business Interruption Risks (BIR), Others insurance policy covering assets etc. BIAL had considered annual increase in premium on IAR policy at 3% for FY 2017 and 5% increase thereon, value of coverage on

AOL policy had been increased from \$500Mn to \$750Mn from 2017 to 2020 and \$1000Mn for 2021 and BIR policy coverage had been increased from Rs. 2168 Cr to Rs. 4000 Cr for 2017 to 2020 and Rs. 6000 Cr thereon.

12.3.25 Authority had sought clarification from BIAL on the basis for considering premium at the rate of 0.05% while historical trend reveals average rate of premium at 0.03% and reason for increase in insurance coverage for AOL and BIR Policy.

12.3.26 BIAL response was given below:

> *"...Recent GIC guidelines on the pricing of the large risks has pushed the premium upwards since the minimum rates are now defined and need to be adhered to, unlike in the past where insurers were offering huge discounts on the tariff rate. The GIC guideline applies to 13 industries and airports is one of the listed industries. This has led to hardening of the premium and hence higher premium rate has been assumed.*
>
> *BIAL currently has AOL policy for 600 MUSD. The limit of liability for AOL is linked to the exposure viz., the passengers, cargo and aircraft handling. Going forward, the traffic is expected to increase further, and with higher levels of international passengers being handled, and large aircraft operations (such as B747/A380), this will trigger the higher sum insured. Therefore, the increase to 1000 MUSD by FY22 is assumed.*
>
> *With the planned expansion and higher traffic levels, the sum insured for the assets including CWIP and the Business Interruption cover and the other miscellaneous policies will increase and hence the BI and Terror cover/others needs to be increased to mitigate the higher risk..."*

12.3.27 The Authority noted the responses from BIAL and basis for considering increase in value of underlying assets and basis for considering increase in premium. The Authority proposed to consider the estimates as provided by BIAL and true up the costs based on actuals at the end of the current control period.

Rates and Taxes

12.3.28 The Authority noted that BIAL had paid Rs. 25.54 Crore and Rs. 13.32 crore in 2015 and 2016 respectively towards Property tax. Authority sought clarification on sudden increase in expenditure incurred during control period 1.

12.3.29 BIAL has submitted that:

> *"...The Property taxes amount of Rs. 36.25 crore for FY 2014 and FY 2015 is the charge raised by tax authorities including arrears*
>
> *The Property taxes spend for FY 2016 is towards Property tax - Rs. 7.25 crore and balance towards BIAPPA Tank rejuvenation cess..."*

12.3.30 The Authority noted the response from BIAL.

Waivers and Bad Debts

12.3.31 BIAL had claimed bad debts of Rs. 44.87 Cr and 1.87 Cr for 2013 and 2016 respectively. Authority noted that in MYTO-CP-1, Authority had approved write off towards outstanding of Kingfisher Airlines becoming unrecoverable as one-off event for Rs. 47.51 Cr and also stated that managing the risk of Bad Debts was within the Business Activity to be undertaken by the Airport Operator. Authority proposed to not consider write off of any Bad debts other than Kingfisher, as the Airport Operator is expected to recover the same, in the normal course of business.

CSR Expenses

12.3.32 BIAL had submitted CSR expenditure incurred for Control period 1 and projections % of the profit for Control period 2. Details of expenditure is summarized below:

Table 47: CSR Expenditure estimated by BIAL (Rs. Crores)

Particulars	Year 1	Year 2	Year 3	Year 4	Year 5
Control period 1	0.00	0.00	0.00	0.00	1.16
Control period 2	3.72	13.90	23.19	31.47	34.88

12.3.33 The Authority noted that BIAL had estimated the CSR cost as part of the Operating Expenditure. Being not related to the Airport Activity, the Authority proposed to not allow CSR expenditure for CP1 and CP2 and proposed to recalculate the expenses accordingly.

General and Administration Costs

12.3.34 BIAL had claimed increase in Consultancy and Legal charges by 30% in 2017 and 10% thereon, travel and office cost had been considered at 13% increase in 2017 and 10% there on. Authority sought clarification for basis of significant increase in cost for 2017 and 10% increase YoY.

12.3.35 BIAL response is given below:

> *"...BIAL is transforming the Kempegowda Airport into a smart airport, is embracing technology and embarking on a digital journey. The underlying vision is to develop Bengaluru as the Gateway to South India and enhance its brand as the Silicon Valley of India, while at the same time align with the vision of the GoI of a 'Digital India'. This will enhance the 'naturally easy experience' BIAL offers to its customers.*
>
> *The initiatives include conducting roadshows, industry outreach programs, catchment area programmes and industry alignment meetings. Hence, the estimates for Consultancy and Legal for FY 2018 is slightly higher mainly towards various new digital initiatives and there after annual increase of 10% considered for Consultancy & Legal, Travel costs and Office costs as per the past trend..."*

12.3.36 The Authority noted that the past trends on increase in General Admin and Maintenance costs were fluctuating. The Authority proposed to moderate the increase in General & Administrative expenditure to 10% per annum and proposed to recalculate the expenses accordingly.

12.3.37 Considering the changes above, the Authority had recalculated the Operating Expenditure relating to Aeronautical Services as follows:

Table 48: Operating Expenditure recomputed by Authority under Hybrid Till detailed in Consultation Paper 05/ 2018-19 (Rs. Crores)

Particulars	2017	2018	2019	2020	2021
Personnel Expenses	107.77	128.73	146.70	164.60	193.92
Operations & Maintenance	82.73	95.14	109.41	125.82	144.69
Lease Rent	13.03	13.42	13.83	14.24	14.67
Utilities	38.42	40.55	46.66	49.18	56.22
Insurance	3.54	4.54	5.13	6.06	8.84
Rates & Taxes (other than IT)	8.72	8.80	8.87	8.96	9.40
Marketing and Advertising	7.58	8.52	9.57	10.74	12.06
CSR					
General Administration Costs	19.66	21.63	23.79	26.17	28.78
Total Operating Expenses - Aero	**281.45**	**321.32**	**363.96**	**405.76**	**468.59**
Less: Disallowance - Interest/ Hotel cost etc.	-0.20	-0.28			
Concession fee	26.77	30.67	42.64	44.71	54.71
TOTAL OPERATING EXPENDITURE - AERO	**308.02**	**351.72**	**406.60**	**450.47**	**523.30**

12.3.38 The Authority noted that all components of Operating Expenditure estimated above, could vary, especially considering the New Runway and Terminal being commissioned, large scale Capital expenditure being proposed by BIAL and other factors. The Authority, hence proposed to true up the costs based on actuals at the end of the current control period after analysis for reasonableness.

12.4 Stakeholders' comments on Authority's analysis of Operating Expenditure

12.4.1 IATA has stated the following:

"...IATA commends AERA for correctly identifying items such as CSR cost which should not be part of the operating expenditure in the first place. There ought to be stricter distinction by BIAL of such costs, which are not for the provision of aeronautical services. On the aspect of the increase of consultancy costs, the business cases and expected benefits should be made transparent with the aim of delivering increased efficiency to drive unit cost down. This should form the reasonableness assessment by AERA and further validated by the airport users through the AUCC framework, which AERA must enforce more diligently. A review of the aeronautical and non-aeronautical split should also dictate the personnel allocation,

which at present can be considered high (90%) for an airport like BIAL, and more so given that this determination is made under a hybrid till approach..."

12.4.2 HIAL has stated the following:

"...We would like to submit that the CSR as stipulated by the Central Government is in the nature of acts, which reduce the overall profitability of the company including the aeronautical profitability as decided under regulatory framework thereby reducing the return to equity shareholders. Hence the CSR spent by the company shall be treated akin to tax computation under regulatory mechanism. We request the authority to consider aeronautical portion of CSR as derived from aeronautical P&L should form part of eligible expenditure. Moreover, the return assured on equity under the regulatory regime is reduced in case this is not considered as expenses. This being a regulated asset, the authority should ensure that the return to the shareholders after making statutory deduction (in the form of tax or similar deduction like CSR) is protected under all circumstances..."

12.4.3 CIAL has stated the following:

"...It is observed that the Authority has proposed to disallow expenditure pertaining to Corporate Social Responsibility (CSR) as part of the tariff determination exercise.

As per the Airport Guidelines, operation and maintenance expenses shall include all expenditures incurred by airport operators including statutory operating costs. We would like to highlight that expenses incurred on CSR is a statutory requirement mandated by the Companies Act, 2013 and hence, such costs incurred by airport operators would fall under the category of statutory operating costs defined by the Airport Guidelines. Further, while the Authority is of the view that CSR cost is an appropriation of profit, we would like to submit that it is instead an "above the line" item, which reduces the net profit of the airports. Accordingly, we would request the Authority to allow CSR costs in the nature of statutory costs to be incurred by the airport operators and consider the same while determining final tariffs..."

12.4.4 APAO has stated the following:

"...It is observed that the Authority has proposed to disallow expenditure pertaining to Corporate Social Responsibility (CSR) as part of the tariff determination exercise.

As per the Airport Guidelines, operation and maintenance expenses shall include all expenditures incurred by airport operators including statutory operating costs. We would like to highlight that expenses incurred on CSR is a statutory requirement mandated by the Companies Act 2013 and hence such costs incurred by airport operators would fall under the category of statutory operating costs defined by the Airport Guidelines.

Further while the Authority is of the view that CSR cost is an appropriation of profit, we would like to submit that it is instead an "above the line" item, which reduces the net profit of the airports.

Accordingly, we would request the Authority to allow CSR costs in the nature of statutory costs to be incurred by airport operators and consider the same while determining final tariffs..."

12.4.5 Consumer Care Society (CCS) has stated the following:

"...To reconsider operational expenditure for CSR which is very high..."

12.4.6 Sanjeev V Dyamannavar has stated the following:

"...Corporate Social Responsibility (CSR):- We request AERA to direct KIAL to put on public domain all Corporate Social Responsibility (CSR) activities under taken with funds spent as these CSR activities cost is funded from UDF only.

Projections of Aeronautical Expenditure and Revenue of Non-Aeronautical Income: From the Consultation paper, Expenditure like Lease Rent, Utility Cost, Property Tax and others are loaded as 100% Aeronautical Expenditure but these can be directly linked to Non-Aeronautical activities also. Hence proportionate cost should be allocated..."

12.5 BIAL's response to Stakeholders' comments on Authority's analysis of Operating Expenditure

12.5.1 On IATA's comments, BIAL has submitted as follows:

"...IATA agrees with the Authority's proposal that items such as Corporate Social Responsibility (CSR) cost should not be part of operating expenditure. It has further commented that the expected benefits of certain other costs including consultancy costs need to be made transparent.

BIAL has already provided a detailed justification on why CSR costs should be included as part of its operating expenses, and a justification for consultancy costs has also been provided in BIAL's responses to the CP.

IATA has also commented that the allocation of personnel cost appears to be on the higher side (90% aeronautical) for an airport like BIAL. BIAL would submit that personnel cost allocation ratio has been estimated by considering bifurcation of expenses and department wise allocation of costs as part of a "bottom-up" approach, and the same has been certified by its statutory auditor..."

12.5.2 BIAL has concurred with comments made by HIAL, CIAL and APAO.

12.5.3 On CCS's comments, BIAL has submitted as follows:

"...1) CCS has requested the Authority to "reconsider" the operational expenditure for CSR as the same is high.

2) BIAL submits that CCS has not provided any justification or context for stating that the CSR is "high" and this is computed as per the provision of the Companies Act 2013. BIAL has also requested the Authority to consider CSR as an operational expenditure as it is an 'above the line' item and the same needs to be considered for tariff determination..."

12.5.4 On Sanjeev V Dayamannavar's comments, BIAL has submitted as follows:

"...1) Respondent has requested the Authority to direct KIAB to share in the public domain details of those activities where CSR funds have been spent as the same have been funded through UDFs.

2) The CSR spend in a financial year forms part of the Annual report and the same is made available on BIAL's website. The Authority has disallowed the CSR expenditure in the CP and BIAL has made its detailed submission to consider the same as part of the tariff determination in its response to the CP.

Respondent has commented that lease rent, utility costs, and property taxes among other operating expenses are allocated as 100% aeronautical but can be directly linked to non-aeronautical activities as well.

BIAL submits that it has adopted a detailed allocation methodology to allocate its expenses between aeronautical and non-aeronautical components. The rationale for allocating these expenses as 100% aeronautical had been shared with the Authority as part of BIAL's MYTP submissions, as a certificate from BIAL's statutory auditor..."

12.6 BIAL's comments on Authority's analysis on Operating Expenditure

12.6.1 BIAL has submitted as follows, on Authority's analysis of Operating Expenditure

"Approach towards projection of employee costs

AERA's Treatment

As per the CP, the Authority has stated as below with respect to the projections of employee costs,

"10.3.7 The Authority proposes to moderate the increase in employee costs considering 10% increase from financial year 2018 onwards instead of increase in rate that has been proposed by BIAL."

Further, as per para 10.3.10 of the CP, the Authority has stated as given below:

"10.3.10 The Authority proposes to reduce employee strength considering a maximum increase of 15% (Changes made to Grade D) for Phase 1. Also, for the expansion, Authority seeks clarification on the number of resources considered and proposes to consider 50% of the increase submitted by BIAL in FY 2021 for the expansion (117 employees) and consider

increase of 7 % towards incentive payments and 5% on other cost from financial year 2018 onwards and proposes to recalculate the projected Salary cost accordingly."

BIAL's Response

Increase in manpower due to significant increase in traffic: *- BIAL submits that passenger traffic at KIAB has increased at 10.5% p.a. making it almost 1.8 times higher in FY 2016-17 over FY 2011-12. Further, ATM traffic has increased at a CAGR of around 7%. Given this growth, the airport has undertaken significant capex at the airport.*

Increase in manpower due to significant increase in infrastructure facilities

New capacities have been added both on airside and terminal side to cater to this growth. Details of some of the capacity added is as below:

Airside – Rapid-exit taxiway (RET) works have enhanced the Airside capacity from ~28 ATMs to ~38 ATMs. Addition of 25 Apron stands means almost 1.5 times capacity compared to FY 2011-12 have allowed additional Aircraft parking

Terminal side - With T1A project (Terminal building) capacity increased from 12 MPPA to 20 MPPA - almost doubled the capacity and terminal building area.

While traffic has almost doubled (with significantly higher capacity being provided), the headcount has increased merely at a CAGR of less than 2% viz. a total 11% increase in the last 6 years. As can be seen from the above, BIAL has always endeavoured to operate efficiently and has over the last five-six years managed with a lower headcount. However, given the significant increase in traffic and projected traffic growth, a headcount increase has been proposed. Please note that the additional headcount proposed is on account of the following:

Carry forward / replacement positions previously approved by Board – on account of multiple factors including lack of availability of manpower with requisite skillsets

Additional 3% increase in manpower is considered towards regular business growth

Manpower for NSPR – Headcount of 235 number are estimated towards NSPR project from FY 2020-21 (post capitalization)

Need for sufficient manpower for future expansion projects – NSPR & T2 Phase 1

The Authority has proposed to reduce the proposed headcount for NSPR of 235 by 50%. We request the Authority to take into consideration that airports need to abide by various prescribed norms of different regulatory bodies like DGCA, BCAS, etc. and its manpower requirements are guided to ensure compliance with such regulatory requirements (e.g. a runway would require ARFF personnel as defined in regulations and reducing these estimates by half would mean that the airport defaults on prescribed safety norms). BIAL's estimates of headcount required is based on technical justifications which have already been shared with the Authority.

We would also like to highlight that works relating to Phase 1 of Terminal 2 are fully underway and it is expected that the project would be completed in FY 2020-21 and the Terminal 2 Phase 1 would be operational in the current Control Period. It may be noted by the Authority that a significant number of personnel for Phase 1 of Terminal 2 would be required much ahead of the scheduled commercial operations of Terminal viz. preparation of terminal operations, etc.

Not providing the requisite manpower may lead to a significant impact on the day-to-day operations and performance of the airport including deterioration in the user experience. Accordingly, BIAL requests the Authority to consider the expenses based on the technical justifications provided by BIAL and true-up these expenses in the Third Control Period in the event that BIAL's actual expense is lower than the estimates considered in the tariff order.

Provision of adequate compensation for retention of skilled workforce

BIAL has estimated and proposed compensation growth in line with industry benchmarks and further to prevent attrition (as the airport industry is growing, there is huge demand for skilled personnel). The Authority may note that the annual increments are considered at 10% with a nominal 2% market correction once in every three years (in-line with industry practice). Further, it is important to note that certain positions demand for unique skill sets, manpower resource / availability in the market is not in abundance and day by day induction is becoming tougher, and hence the annual 10% increase and 2% market corrections are justified. BIAL would also like to highlight that the incentives and other costs (staff welfare, recruitment, T&D, etc.) are very conservative ~ estimated at 14% and 10% respectively – these are only marginally higher than the past actuals.

BIAL submits to the Authority that it should consider BIAL's estimates of projected salaries towards the determination of final tariffs for the Second Control Period. In the event BIAL is able to save costs and expense out an amount, which is below the estimates used in the final tariff order, a true-up of these expenses based on actuals financial results can be undertaken by the Authority while determining tariffs for the Third Control Period.

Finally, BIAL would like to submit that the personnel cost allocation of 95% Aero is backed with Auditor certificate and workings and hence allocation should be considered at this ratio.

BIAL's Submission

BIAL requests the Authority to consider BIAL's estimates on manpower requirement as well as projects manpower costs towards the determination of final tariffs for the Second Control Period. Further, the Authority may consider true-up of these expenses on actuals at the time of determining tariffs for the Third Control Period.

Approach towards projection of O&M Expenses

AERA's Treatment

As per the CP, the Authority has stated as below with respect to the projections of O&M Expenses:

......

BIAL's Response

Operating expenses at an airport are largely driven by the size / scale of infrastructure being managed and the volume of traffic handled at the airport. An increase in operating expenses is justified wherever infrastructure and passenger traffic increase. While the Authority has acknowledged BIAL's clarifications / justifications, it has unfortunately taken a position merely based on the fact that BIAL has estimated a material increase in O&M expenses.

BIAL would request the Authority to consider O&M expenses based on legitimate technical justifications provided by BIAL which include aspects such as increased wear and tear of airside and terminal assets and increased consumables expenditure on account of higher utilization of assets; use of technology such as ATRS, self-baggage drop to meet traffic growth in a capacity constrained environment and new initiatives to improve customer services/experiences. The Authority may note that number of aeronautical assets including runway, taxiway, passenger terminal building are operating above capacity and hence wear and tear is expected to be much higher. This would require more preventive and scheduled maintenance of such assets and hence higher maintenance costs.

Increase in Minimum wages (~ 20%) and its impact on O&M costs

Also, it may be noted that costs towards AMCs have already increased significantly and these are further expected to increase on account of higher labour / manpower costs (maintenance requirements of airside / landside assets are labour intensive). During the previous year the minimum wages have increased by more than 20% thus increasing the cost base, which would have a significant impact on maintenance expenses. Further, additional expenses like license fee for ICT services payable to DoT (under discussion by Ministry) have not been accounted currently and hence may have an impact on the expenses.

Additionally, BIAL would like to highlight to the Authority that the mechanism of true-up these expenses at the time of determining tariffs for the Third Control Period is available to the Authority in the event that BIAL's actual expense is lower than that estimates considered in the tariff order. Not considering such expenses can have significant implications on the cash flows of BIAL. Accordingly, BIAL requests Authority consider the O&M costs proposed for the Second Control Period.

BIAL's Submission

BIAL requests the Authority to consider BIAL's estimates of O&M Expenses for the period FY 2017-18 to FY 2020-21 towards the determination of final tariffs for the Second Control

Period based on the size / scale of infrastructure being managed and the volume of traffic expected to be handled at the airport and true-up these expenses on actuals at the time of determining tariffs for the Third Control Period.

Approach towards projection of Power and Water charges

AERA's Treatment

As per the CP, the Authority has stated as below with respect to the projections of Power and Water charges:

......

BIAL's Response

Power charges have increased at a CAGR of 7% over the last three years, which is in line with BIAL's estimates of 7% for the Second Control Period. Further, the per unit power charges increase annually. Therefore, BIAL's estimates for increase in power charges by 7% is in line with the above.

Based on the historic trend, water charges have increased at a CAGR of 7.26% over the last five years from FY 2011-12 to FY 2016-17, which is in line with BIAL's estimates of 7% for the Second Control Period. Further, the per unit water charges are increased once in a period of two-three years. The last revision which happened in FY 2015-16 resulted in these charges to increase by ~20%. Therefore, BIAL's estimates for increase in water charges by 7% is in line with the above.

In addition, as per contracts, various third-party concessionaires are obligated to pay BIAL for the usage of infrastructure for utilities in addition to the cost of utility charges as levied by various utility providers. We would like to highlight that the charges reduced from operating expenses by the Authority pertain to the charge for provision of infrastructure facilities. These are in fact, revenues earned by BIAL on account of provision of the utility infrastructure and not on account of utilities usage. Further, as per para 4.24 of ICAO's Economic Manual (Doc 9562), payments received for services such as heating, air conditioning, lighting, water, among others are all non-aeronautical in nature (Refer to para 10.2.1 for a detailed explanation on treatment of utility recoveries from concessionaires).

Also, the Authority in its Consultation Paper for the Second Control Period of HIAL has provided a one-time increase in water charges by 25% acknowledging the fact that water charges do increase by such disproportionate amounts every two to three years. An extract from the aforementioned Consultation Paper of HIAL is presented below:

"However, Authority proposes to allow for a one-time escalation in the unit rate by 25% in FY 2018-19 (mid-year of the current Control Period) to compensate HIAL for increasing water tariffs."

BIAL's Submission

BIAL requests the Authority to reconsider its proposal to increase power and water charges by 7%. Further, in case power & water charges do not increase in line with BIAL's estimates, the Authority may true-up the excess expenditure allowed to BIAL at the time of determination of tariffs for the Third Control Period.

Approach towards projection of General Admin Expenses

AERA's Treatment

As per the CP, the Authority has stated as below with respect to the projections of General Admin charges:

"10.3.37 The Authority notes that the past trends on increase in General Admin and Maintenance costs are fluctuating. The Authority proposes to moderate the increase in General & Administrative expenditure to 10% per annum and proposes to recalculate the expenses accordingly."

BIAL's Submissions

BIAL would like to highlight that given the increase in traffic at the airport, there are growing business requirements. To appropriately address these requirements, the estimates for Consultancy for FY 2017-18 is slightly higher mainly towards various new digital initiatives / other business requirements and there after annual increase of 10% considered for Consultancy & Legal, Travel costs and Office costs as per the past trend. The Authority may note that office costs which are the largest contributor to General Admin Expenses, and the key driver for the same is again manpower / labour cost. As highlighted earlier, minimum wages have increased significantly (over 20% last year).

Approach towards allocation of Personnel Costs and General Admin Expenses

AERA's Treatment

As per the CP, the Authority has stated as below with respect to the allocation of personnel costs and general admin expenses: "10.1.14 Recomputed Aeronautical Ratio of O&M expenses is as given below:

....

BIAL's Response

No basis for re-allocation of expenses by Authority

The Authority has recomputed the allocation ratio of personnel cost of BIAL based on the department-wise details of personnel cost submitted by BIAL. The Authority has taken its position based on the allocation of commercial, operations, business development, marketing & strategy and engineering & maintenance employees. The Authority has not considered a specific allocation ratio for the support service costs, which is approximately a third of BIAL's total manpower costs in the years FY 2013-14 to FY 2015-16.

Allocation of expenses by BIAL certified by Statutory Auditor

BIAL however, has submitted an auditor certificate to the Authority, which takes into account all the departments while allocating personnel costs between aeronautical and non- aeronautical. The certificate infers that 95% of personnel costs should be treated as aeronautical expenses. A similar department-wise allocation was done for the purpose of general administration cost. The results of the allocation were that 99% of the general administration expenses were found to be aeronautical.

Accordingly, the Authority must consider the allocation ratio keeping in account all the departments of the airport for personnel and general administration costs towards the tariff determination.

BIAL's Submission

While we appreciate that the Authority would undertake a study to assess the allocation, BIAL reserves the right to review and respond to the study outcomes. In the meantime, BIAL requests the Authority to consider BIAL's submission on the allocation ratio (based on the auditor certificate) for personnel and general administration costs towards the determination of final tariffs for the Second Control Period and true-up these expenses on actuals while determining tariffs for the Third Control Period.

Treatment of Corporate Social Responsibility ('CSR') Costs

AERA's Treatment

As per the CP, the Authority has stated as below with respect to the CSR Costs:

......

BIAL's Response

BIAL wishes to submit that the requirement to spend CSR amount is as per the Companies Act 2013. The Ministry of Corporate Affairs while issuing clarifications to the Companies Act 2013, has through FAQ held that CSR is to be calculated by taking Profit before tax. The same is reproduced for reference:

.....

Based on the above, as the requirement to spend CSR amount is before tax and is a mandated as per Companies Act, we request Authority to consider CSR for similar treatment to tax. Further if the Authority believes that it has to be spent out of return on equity allowed then the return on equity is to be grossed up to include the amount of CSR as it is not an appropriation of profits and spending is to be made before tax. Thus, it is clear that spending for CSR is not an appropriation of profits but it is an item which is in same line of tax, therefore we request Authority to kindly consider this for grossing up of equity return as it is not an appropriation of profits.

The Authority approach of considering CSR expenses as not related to Airport activities is not in line with ICAO principles. One of the responsibilities of the Airport operator is to make good the impact on the environment, which is also acknowledged by the ICAO Doc 9968 –

Report on Environment Management System (EMS) Practices in the Aviation Sector – following points can be noted from the Doc 9968:

There is pressure on the aviation industry to balance increasing global demands in air travel with environmental protection is at an all-time high.

Local air quality, ambient noise levels, water quality, energy use, etc., are some of the most prominent impacts of concern.

On average, the majority of respondents communicated environmental performance through a corporate social responsibility (CSR) report or through their organization's website.

44% use CSR Reports as a one of methods for communicating environmental performance by Airports.

Based on the above para, CSR includes many activities and one of the important activities being the environment impact and local area development, and BIAL is also under obligation to comply with ICAO policies as per the CA. Therefore, it is an ancillary activity, which BIAL has to carry on along with Airport activities.

BIAL's Submission

BIAL requests the Authority to consider CSR costs in the nature of statutory costs to be incurred by the airport operator and consider the same while determining final tariffs for the Second Control Period.

On truing up the operating expenditure for the current control period, at the time of determination of tariff for the next control period

BIAL's Submission

BIAL submits that the Operating Expenditure for the current control period may differ from the projections considered for the determination of tariffs on account of factors such as changes in passenger traffic, capital expenditure, scale of airport operations etc.

Accordingly, BIAL is in agreement with the Authority's proposal to true up the Operating Expenditure for the current control period, at the time of determination of tariff for the next control period.

On carrying out a study for allocation of expenses between aeronautical and non-aeronautical and consider the results of the study, at the time of truing up.

BIAL's Submission

BIAL has noted the Authority's proposal to carry out a study for allocation of expenses between Aeronautical and Non-Aeronautical and consider the results of the study, at the time of truing up. At this stage, since we are not aware of the terms and scope of such study, we reserve our right to respond to such study at a later date.

However, till the time such study is completed, BIAL requests that the allocation as per BIAL MYTP Submissions is considered.

12.7 Authority's examination of Stakeholders' comments on Operating Expenditure

12.7.1 The Authority has carefully reviewed comments from Stakeholders and BIAL on elements of Operating Expenditure.

12.7.2 The Authority notes comments from BIAL and certain stakeholders that CSR expenditure should be allowed as a mandatory cost of the Operator and since return at determined rate is to be provided to the Operator on RAB, these costs should be allowed as a part of Operating Expenditure. The Authority notes that the Authority reviews and evaluates costs relating to Aeronautical Operations of the Airport Operator and considers them appropriately in computation of ARR. The Authority would not be in a position to consider costs that are mandated which are outside the purview of the Aeronautical Operations carried out by the Airport Operator. Also, these expenditures may not be considered as part of Business Expenditure in the computation of Business Income for the purpose of Income Tax.

12.7.3 The Authority has reviewed submissions made by BIAL to consider the cost estimates relating to Personnel, Operations & Maintenance etc. as proposed by it. The Authority notes that it has considered reasonable cost increases in estimating the Projections and detailed the same in the Consultation Paper. The Authority notes that these would be reviewed and trued up based on actuals, considering evaluation of the reasonableness of the costs incurred.

12.7.4 On allocation of expenses between Aeronautical and Non-Aeronautical, the Authority has considered the allocation percentage based on its estimated computations and noted that a study will be conducted to evaluate the same which will be considered for the purpose of true up of the costs considered.

12.7.5 The Authority had noted BIAL's submission of Utility recovery accounted as part of Non-Aeronautical Revenues and that these are part of recovery towards Infrastructure facilities provided. Similar to considering lease rentals from Aeronautical Concessionaires as Aeronautical Revenues, the Authority has considered Infrastructure recovery for utilities from Aeronautical service providers as Aeronautical and has considered this as deduction from Utility costs.

12.7.6 Based on the above analysis, revised operating expenditure is calculated by the Authority as under:

Table 49: Recomputed Operating Expenditure decided to be considered by the Authority for computation of ARR for the second control period (Rs. Crore)

Particulars (Rs. Crores)	2017	2018	2019	2020	2021
Personnel Expenses	107.77	128.73	146.70	164.60	193.92
Operations & Maintenance	82.73	95.14	109.41	125.82	144.69
Lease Rent	13.03	13.42	13.83	14.24	14.67
Utilities	40.64	42.77	48.88	51.40	60.32

Particulars (Rs. Crores)	2017	2018	2019	2020	2021
Insurance	3.54	4.54	4.81	6.08	8.86
Rates & Taxes (other than IT)	8.72	8.80	8.87	8.96	9.40
Marketing and Advertising	7.58	8.69	9.83	11.12	12.58
CSR					
General Administration Costs	19.66	10.56	23.79	26.17	28.78
Total Operating Expenses - Aero	**283.67**	**312.64**	**366.11**	**408.38**	**473.23**
Less: Disallowance - Interest/ Hotel cost etc.	-0.20	-0.28			
Concession fee	39.89	44.89	29.48	35.20	42.03
TOTAL OPERATING EXPENDITURE - AERO	**323.36**	**357.26**	**395.60**	**443.58**	**515.26**

Decision No. 9. Regarding Operating Expenditure

9.a. Based on the material before it and its analysis, the Authority decides:

i. **To consider Operating Expenditure under Hybrid Till as detailed in Table 49 Para 12.7.6 above for determination of tariff for the second control period.**

ii. **To true up the Operating Expenditure for the current control period, at the time of determination of tariff for the next control period.**

iii. **To carry out a study for allocation of expenses between Aeronautical and Non-Aeronautical services and consider the results of the study, at the time of truing up.**

13 Non Aeronautical Revenues

13.1 BIAL's submissions on Non-Aeronautical revenues

13.1.1 BIAL had submitted details of Non-Aeronautical Revenues in its MYTP submission as follows:

"...4.9 Non-Aeronautical Revenues

....

BIAL has entered into Service Provider Right Holder Agreement (SPRH) with service providers wherein BIAL is entitled for agreed percentage of revenue share on gross turnover or Minimum Annual Guarantee (MAG), whichever is higher.

4.9.2 Treatment of Non-aeronautical Revenue (NAR)

As per Article 10 of the Concession Agreement (CA) read with Schedule-6, Regulated Charges i.e., Landing, Parking, Housing, PSF and UDF are only to be regulated. Further, as per Article 10.3 of the CA, BIAL is free without any restriction to determine the charges to be imposed in respect of the facilities and services provided at the Airport or on the site, other than the facilities and services in respect of which Regulated Charges are levied.

As per Order No. 8/2014-15 of AERA, the Authority had also considered the Cargo, Ground Handling & Fuel (CGF) throughput Revenues, ICT Revenues and Common Infrastructure Charges (CIC) as Aeronautical Services. However, as detailed in Section 3, BIAL has contested this Order No. 8/2014-15 with the Hon'ble Appellate Tribunal. As a result, for the purpose of this submission, BIAL has considered CGF as Non-Aeronautical Revenues.

.....

4.9.3 Estimation of Non-aeronautical Revenue in Control Period 2

There are basically two potential revenue streams to BIAL from the concessionaires, i.e. (a) fixed percentage revenue share, and (b) Minimum Annual Guarantee (MAG). BIAL realizes whichever of these revenue streams is higher. As per previous experience, projections for most components have been made on fixed percentage revenue share.

As in the previous submission, the projections are majorly based on the business plan projections submitted by the concessionaire as per the agreement entered into with BIAL for a tenure ranging between 1 to 15 years.

The profile of the consumers plays a vital role in terms of actual realization of the non-aeronautical revenue. The trend of the last couple of years shows that the major traffic increase is in the domestic traffic, while International traffic growth is as per estimates.

Furthermore, the major growth of the passenger traffic (within domestic traffic growth) was observed from the increased share of LCC passenger as against FSC passengers. Traditionally, LCC passengers have a lower appetite for spending on non-aeronautical revenues such as retail and F&B. This was suitably considered while arriving at the projections for Control Period 2 for NAR.

Terminal 1 was planned for a capacity of 20 mppa. However, BIAL is currently handling a traffic of 23 million, which is further expected to increase to over 32 million before Terminal 2 is commissioned. In order to accommodate this traffic, BIAL has introduced a host of temporary measures to sweat out the current Terminal. This has been done to increase the passenger area movement, check-in counters and security counters. Consequently, there has been a reduction in the space for retail and F&B outlets. On the other hand, while number of passengers is increasing, the capacity of existing NAR services will remain the same.

Considering all these factors, BIAL has assumed a growth rate of NAR corresponding to CPI growth rate.

The below mentioned are the various components of NAR along with their respective drivers.

S. No.	NAR Component	Primary Drivers
1	Landside Traffic	CPI
2	Retail/ Duty Free	CPI
3	Food & Beverages	CPI
4	Advertisement & Promotions	Revenue share
5	Rent & Land leases	Space
6	Utility charges	Consumption
7	Flight Catering	MAG
8	CGF Revenue	Revenue Share
9	Others (Lounge Revenue, Terminal Entry)	CPI

The major line items of revenue streams, which constitute NAR and its percentage share to the total, NAR is detailed below:

Particulars	Control Period 2 (Rs. Crore)
Landside traffic	350.0
Retail	582.0
Food & Beverage	176.2
Advertising and Promotions	373.5
Rents and Land leases	140.4
Cargo	237.7
Fuel Farm	456.3
Ground handling	24.9
ICT (including CIC)	285.7
Other Revenues	223.6
Total	2850.3

Others includes Lounge Revenue, Terminal Entry and Utility charges

4.10 Other income

Apart from the NAR discussed above, BIAL would also earn income from two other sources – Interest income on Cash balances and on DSRA balances as shown below…."

13.1.2 BIAL had submitted that under Shared Till, 30% of Non-Aeronautical revenues were considered for adjusting against ARR to determine the tariff. BIAL had submitted details of the above revenue earned for Control period 1 and projected revenue for Control period 2 in their submission. A summary of Non-Aero revenue for first control period and revenue projections for Control period 2 is detailed below:

Table 50: Summary of Non-Aeronautical Revenues for First control period as submitted by BIAL (Rs. Crores)

Particulars	2012	2013	2014	2015	2016
Landside Traffic	22.63	29.27	30.92	37.66	44.47
Terminal Entry/Miscellaneous Income	0.26	0.25	0.24	0.23	0.23
Retail	28.73	33.92	41.62	61.42	88.60
Food & Beverage	13.43	13.96	15.35	19.01	25.18
Advertising & Promotions	33.62	36.95	37.64	46.69	53.32
Rents and Land Leases	19.94	20.47	21.25	22.68	26.05
Lounge Revenues	5.97	6.40	4.88	12.02	14.72
Utility Charges	5.32	5.29	5.37	5.52	6.01
Flight Catering	5.22	5.65	6.11	6.61	8.26
Non-Aviation Revenues - Others	93.91	92.55	98.77	120.60	155.20
Total Non-Aero Revenues	**229.03**	**244.72**	**262.15**	**332.43**	**422.03**

Table 51: Summary of Non-Aeronautical Revenues for Second control period projected by BIAL (Rs. Crores)

Particulars	2017	2018	2019	2020	2021
Landside Traffic	63.34	66.51	69.83	73.33	77.00
Terminal Entry/Miscellaneous Income	0.18	0.18	0.18	0.18	0.18
Retail	105.32	110.59	116.12	121.93	128.02
Food & Beverage	31.88	33.48	35.15	36.91	38.75
Advertising & Promotions	71.77	70.00	73.50	77.18	81.03
Rents and Land Leases	25.42	26.82	28.02	29.29	30.89
Lounge Revenues	19.76	20.75	21.79	22.88	24.02
Utility Charges	5.55	5.55	5.55	5.56	11.08
Flight Catering	8.45	9.25	10.10	11.01	11.94
Non-Aviation Revenues - Others	179.14	190.84	202.73	218.21	243.17
Total Non-Aero Revenues	**510.82**	**533.96**	**562.97**	**596.46**	**646.09**

13.1.3 BIAL had considered Cargo, Ground handling and Fuel Farm operations as Non-Aeronautical services along with considering revenue from ICT services / CIC as Non-Aeronautical.

13.1.4 BIAL had submitted as follows, relating to Non-Airport activities:

"...BIAL has conducted studies through International Property Consultants to understand the possible land uses for commercial exploitation, given the conditions provided in the concession agreement. The studies indicate that there will be a sustained demand over a phased period for different asset classes such as commercial office spaces, hospitality – hotels and service apartments, MICE components – exhibition and convention centers, shopping malls, food and beverage, education institutions and hospitals among others.

Furthermore, BIAL has identified 462 acres of land from the total land parcel of 4,009 acres for commercial real-estate development. The land has been leased to the airport and therefore any further transfer of land for development can be on a sub-lease basis only. The land allocated for the commercial development is presently not serviced. A large investment – upwards of INR 500 crores is needed to make the land serviceable by provision of roads, power, water, IT etc. BIAL is currently constrained to allocate resources for the development of airside infrastructure given the rapid rate of increase in passenger and cargo traffic. Real estate development will have to wait for resource allocation for any meaningful development to happen. In Order No. 8/2014-15, AERA proposes to consider income from leased land utilized for non-airport activities for the purpose of tariff determination, on the basis of recommendations from GoK. BIAL has appealed to the Hon'ble Appellate Tribunal and the matter is pending for further hearing. BIAL has not considered any real estate development activities during Control Period 2 for the purpose of MYTP submission..."

13.2 Authority's analysis on Non-Aeronautical revenues detailed in Consultation Paper

13.2.1 The Authority had carefully evaluated the submissions made by BIAL relating to Non-Aeronautical Revenue. Authority's analysis of individual heads was as given below.

13.2.2 Authority noted the trend of revenue growth in key heads of Non-Aeronautical revenue as follows:

Table 52: Revenue per passenger analysis by Authority for key Non-Aero Revenue heads

Particulars	2012	2013	2014	2015	2016	2017
Revenues for Key Heads (Rs. Crore)						
Landside Traffic	22.63	29.27	30.92	37.66	44.47	63.34
Retail	28.73	33.92	41.62	61.42	88.60	108.32
Food & Beverage	13.43	13.96	15.35	19.01	25.18	31.88
Flight Catering	5.22	5.65	6.11	6.61	8.26	8.45
Lounge Revenues	5.97	6.40	4.88	12.02	14.72	19.76
Growth Rates (Value terms)						
Landside Traffic		29.35%	5.65%	21.77%	18.10%	42.43%
Retail		18.05%	22.71%	47.59%	44.24%	22.27%
Food & Beverage		3.95%	9.94%	23.84%	32.44%	26.63%
Flight Catering		8.23%	8.19%	8.16%	25.03%	2.26%

Particulars	2012	2013	2014	2015	2016	2017
Lounge Revenues		7.32%	-23.78%	146.31%	22.39%	34.31%
Average Revenue per passenger						
Total Passengers (Mn.)	12.71	11.99	12.87	15.40	18.97	22.88
Revenue per passenger (Rs.)						
Landside Traffic	17.80	24.40	24.03	24.45	23.44	27.68
Retail	22.60	28.28	32.34	39.88	46.70	47.34
Food & Beverage	10.57	11.64	11.93	12.34	13.27	13.93
Flight Catering	4.10	4.71	4.75	4.29	4.35	3.69
Lounge Revenues	4.70	5.34	3.79	7.81	7.76	8.64

13.2.3 **Landside Traffic: -** Landslide Traffic consists of revenue from parking, taxi & limousine. The Authority observed that BIAL had projected revenues from each of the service with downward trend in revenue per passenger. Summary of the revenue per PAX and % change was as listed below.

Table 53: Landside traffic trend analysis – Revenue per passenger (Rs.)

Particulars	2017	2018	2019	2020	2021
Revenue Share					
Parking Services	21.23	20.35	19.57	18.85	18.26
% Change in revenue projections	-13%	-4%	-4%	-4%	-3%
Taxi Services	29.12	27.92	26.84	25.86	25.05
% Change in revenue projections	41%	-4%	-4%	-4%	-3%
Limousine	4.89	4.69	4.51	4.34	4.21
% Change in revenue projections	-12%	-4%	-4%	-4%	-3%

13.2.4 Authority sought clarification and basis for considering fall in revenue per passenger through the Control period 2.

13.2.5 BIAL's response was as given below:

"...Parking - The growth opportunities in parking is constrained on account of landside expansion works - MLCP, roadways, others.

***Taxi** - The Airport taxi operators' business has reduced because of competition from App based taxis. The parking space is constrained and not able to accommodate complete requirements of App based taxi.*

***Limousine** - This business is in MAG and may opt out of the Airport. Hence, annual increase in revenue estimated at 5%.*

The passenger has option to take private vehicle, bus or other modes for transport. The entire passenger increase will not result in higher parking/taxi/ limousine revenue for BIAL. Hence, we have assumed an annual increase of 5% of revenue to BIAL..."

13.2.6 The Authority noted BIAL submissions above on Non-Aeronautical Revenues, the constraints faced in the Terminal Building and the change in profile of passengers. While it may not be possible to project a higher growth at revenue per passenger level, the Authority proposed to consider an increase in revenue by 12.5% per annum from FY 2018 onwards, broadly in line with the increase in volume of passengers and proposed to recalculate the revenues accordingly.

13.2.7 **Retail:** - Retail business of BIAL includes domestic, international, Forex & Others. The Authority noted that BIAL had projected lower revenue growth on a year on year basis per passenger. Summary of the revenue and % decrease was as tabulated below:

Table 54: Retail revenue trend analysis – Revenue per passenger (Rs.)

Particulars	2017	2018	2019	2020	2021
Revenues Summary – Retail					
Total Revenues - Retail-Domestic	18.35	17.59	16.91	16.29	15.78
% Change in revenue projections	1%	-4%	-4%	-4%	-3%
Total Revenues - Retail-Int'l.	413.15	395.21	380.00	366.05	354.24
% change in revenue projections	9%	-4%	-4%	-4%	-3%
Total Revenues - Retail-Others	1.53	1.47	1.41	1.36	1.32
% Change in revenue projections	14%	-4%	-4%	-4%	-3%
Total Revenues - Retail-Forex	31.90	30.51	29.34	28.26	27.35
% Change in revenue projections	14%	-4%	-4%	-4%	-3%

13.2.8 Authority sought clarification and basis for considering fall in revenue per passenger through the Control period 2.

13.2.9 BIAL response was as below:

> *"...While there is growth in passengers, the Retail space is not increasing. The Terminal is congested and passenger is constrained for space and time. Hence, we are not expecting more revenues and thus an annual increase of 5% has been assumed..."*

13.2.10 The Authority noted BIAL submissions above on Non-Aeronautical Revenues, the constraints faced in the Terminal Building and the change in profile of passengers. While it may not be possible to project a higher growth at revenue per passenger level, the Authority proposed to consider an increase in revenue by 12.5% per annum from FY 2018 onwards, broadly in line with the increase in volume of passengers and proposed to recalculate the revenues accordingly.

13.2.11 **Food & Beverage:** - F&B business of BIAL is classified under 3 categories. i.e. domestic, International & Others. The Authority noted that BIAL had projected lower revenue per PAX for all the 3 categories of service for Control period 2. Summary of the revenue and % decrease was as tabulated below:

Table 55: F&B Revenues - Trend of revenue per passenger (Rs.)

Particulars	2017	2018	2019	2020	2021
Revenues Summary - F&B					
Total Revenues - F&B -Domestic	15.20	14.57	14.01	13.50	13.08
% Change in revenue projections	9%	-4%	-4%	-4%	-3%
Total Revenues - F&B - Int'l.	20.18	19.35	18.60	17.92	17.34
% Change in revenue projections	0%	-4%	-4%	-4%	-3%
Total Revenues - F&B -Others	11.82	11.33	10.90	10.50	10.17
% Change in revenue projections	3%	-4%	-4%	-4%	-3%

13.2.12 Authority sought clarification and basis for considering fall in revenue per passenger through the Control period 2.

13.2.13 BIAL's response is detailed below:

> *"...While there is growth in passengers, the F&B space is not increasing. The Terminal is congested and passenger is constrained for space and time. After a certain volume revenue per pax cannot increase continuously due to inherent constraints like competition, pricing, etc... Also, due to various expansion activities, the revenues from Kerbside outlets will get impacted in the next 3 years. Hence, we are not expecting more revenues and thus an annual increase of 5% has been assumed..."*

13.2.14 The Authority noted BIAL submissions above on Non-Aeronautical Revenues, the constraints faced in the Terminal Building and the change in profile of passengers. While it may not be possible to project a higher growth at revenue per passenger level, the Authority proposed to consider an increase in revenue by 12.5% per annum from FY 2018 onwards, broadly in line with the increase in volume of passengers and proposed to recalculate the revenues accordingly.

13.2.15 **Advertising and Promotions: -** BIAL had entered into contract with Advertisement Company with minimum Guaranteed revenue plus % of revenue share. BIAL had projected fall in revenue for 2018 by 2.5% from the previous year and nominal growth thereon at the rate of 5% while the historical trend showed year on year growth of 13.52%. Summary of the revenue with % Increase / decrease was as tabulated below:

Table 56: Trends in Advertising and Promotions (Rs. Crores)

Particulars	2012	2013	2014	2015	2016
Revenues from Advertising & Promotions	33.62	36.95	37.64	46.69	53.28
% of Increase /Decrease in revenue	38%	10%	2%	24%	14%
Particulars	2017	2018	2019	2020	2021
Revenues from Advertising & Promotions	71.77	70.00	73.50	77.18	81.03
% of Increase /Decrease in revenue	35%	-2%	5%	5%	5%

13.2.16 Authority sought clarification on negative projections for 2018 and reasons for considering growth of 5% for 2019 to 2021.

13.2.17 BIAL had responded as below:

> *"...Based on higher actual turnover of concessionaire for FY 2016-17, BIAL has considered 35% hike for FY 2016-17. This is not a regular phenomena and we don't envisage such higher turnover for subsequent periods. Also, the landside expansion (widening of roads - Main access road, approach roads, forecourts and taxi holding areas) projects will have huge impact on outdoor advertisement revenues. Hence, the revenue estimate for FY 2017-18 is revenue share to BIAL based on projected revenue as per agreement and thereafter growth of 5%..."*

13.2.18 The Authority understood that outdoor advertisement revenues for BIAL could be impacted considering landside expansion. Hence, the Authority proposed to consider the revenues estimated by BIAL and true up the revenues based on actuals at the end of the current control period.

13.2.19 **Rent and Land Leases**: - Rent and Lease land consist of rental revenues from Airside / Landside, PTB – Office, PTB - Storage / GSE, Cargo Warehouse / Offices, Land Lease & AAI. BIAL had projected expected rentals with the area available and occupancy.

13.2.20 Authority had reviewed the computations and sought clarification from BIAL to explain the reason for significant fall in price for FY-2015 on Airside/Landside, PTB - Storage / GSE, & Cargo Warehouse / Offices. Also, the Authority noted that BIAL had considered conservative increase of 5% on year on year basis.

13.2.21 Authority also noted that rentals were received from various service providers who provided Aeronautical services. Authority proposed to consider revenue from Aeronautical service providers as Aeronautical Revenues.

13.2.22 **Lounge Revenues: -** Lounge revenue consists of rentals derived from domestic, international & day hotels. Authority observed that BIAL had projected revenues per passenger in decreasing trend on a year on year basis. Summary of the revenue and with % Increase / decrease was as tabulated below:

Table 57: Lounge Revenue - Trend analysis of revenue per passenger (Rs.)

Particulars	2017	2018	2019	2020	2021
Revenues Summary - Lounge Revenues					
Domestic Rental per PAX	8.31	7.97	7.66	7.38	7.15
% Decrease in revenue projections	27%	-4%	-4%	-4%	-3%
International Rental Per PAX	62.40	59.69	57.40	55.29	53.51
% Decrease in revenue projections	16%	-4%	-4%	-4%	-3%
Day Hotel Rentals per PAX	0.52	0.50	0.48	0.46	0.45

% Decrease in revenue projections	-20%	-4%	-4%	-4%	-3%

13.2.23 Authority sought clarification and basis for considering fall in revenue per passenger through the Control period 2.

13.2.24 BIAL had submitted as follows:

> *"...There is a constraint in seating capacity for lounges during peak period and this impacts revenue. Also, the lounge caters to niche travellers and does not increase proportionately with traffic. Thus, an increase in annual growth of 5% revenue is estimated for CP 2.*
> *The day hotel is in MAG with a 5% year on year increase as per Agreement. The higher passenger growth has resulted in a decrease in per depax revenue. Hence, it is estimated that annual increase in revenues will continue to grow at 5%..."*

13.2.25 The Authority noted BIAL submissions above on Non-Aeronautical Revenues, the constraints faced in the Terminal Building and the change in profile of passengers. While it may not be possible to project a higher growth at revenue per passenger level, the Authority proposed to consider an increase in revenue by 12.5% per annum from FY 2018 onwards and proposed to recalculate the revenues accordingly.

13.2.26 **Utility Charges:** - BIAL had considered revenue collected from concessionaries on electricity, potable water and waste management services as part of utility revenue under Non-Aeronautical Revenue. The Authority had carefully examined the same and proposed to consider these recoveries as a reduction to utility cost (Operating Expenditure) and therefore consider the net costs relating to Utilities as Aeronautical after set off.

13.2.27 **Flight Catering:** - BIAL had forecasted revenue considering higher of following

(i) Estimated PAX expected to use services & expected revenue per passenger and

(ii) Minimum Annual Guarantee.

Authority observed that BIAL had considered lower utilization of services of flight catering considering its double-digit growth in past; analysis was as tabulated below:

Table 58: Projected PAX expected to utilize services of flight catering (Rs.)

Particulars	2012	2013	2014	2015	2016
No. of passengers expected to avail FC service	2.42	2.55	2.99	3.64	4.57
% Increase /(Decrease) in Revenue	33%	5%	17%	22%	25%
Particulars	**2017**	**2018**	**2019**	**2020**	**2021**
No. of passengers expected to avail FC service	5.50	6.03	6.58	7.17	7.78
% Increase /(Decrease) in Revenue	21%	10%	9%	9%	8%

13.2.28 Authority sought clarification and basis for considering lower passenger base while the past trend revealed continuous increasing trend in volumes.

13.2.29 BIAL had submitted as follows:

"...The flight catering revenue until FY 2014-15 was in MAG, hence the past trend shows higher revenue per passenger growth. There on they are on revenue share for FY 2015-16 and we don't anticipate higher growth on account of passenger growth as we observe there is higher increase in LCC model as against FSC model. Hence, the same revenue per passenger of FY 2015-16 is considered for entire CP 2..."

13.2.30 As detailed above, while it may not be possible to project a higher growth at revenue per passenger level, the Authority proposed to consider an increase in revenue by 12.5% per annum from FY 2018 onwards, broadly in line with the increase in volume of passengers and proposed to recalculate the revenues accordingly.

13.2.31 **Non-Aviation Revenues – Others:** - Revenues from non-aviation includes revenues from Cargo services, Ground handling, Fuel farm, ICT, CIC charges, Reception desk, Oil Spillage, infra services etc.

13.2.32 Authority noted that revenue from Cargo Ground Handling, Fuel Farm, ICT and CIC charges were considered as Aeronautical revenues by BIAL. This was analyzed in detail by the Authority in MYTO-CP1 and Authority had elaborated its reasoning and analysis for considering these revenues as Aeronautical Revenues, as detailed below:

"....Decision No. 16 Treatment of Revenue from Ground Handling, Fuel throughput and Cargo Services

The Authority decides:

To note that the Fuel Farm Facility is operated by IOSL and the assets of this facility are on the balance sheet of IOSL. To further note that IOSL is paying Airport Operator Fee (commonly understood as Fuel Throughput charge) of Rs. 1067 per KL to BIAL. Accordingly, to consider the Throughput Fee revenue from fuel farm service concessioned out by BIAL to IOSL as Aeronautical Revenue in the hands of BIAL.

To consider the revenue from Cargo Facility, Ground Handling and Into Plane services (provided by third party concessionaires) accruing to BIAL as Aeronautical revenue for determination of tariffs of aeronautical services for the current control period...."

13.2.33 Accordingly, the Authority considered these revenues as Aeronautical Revenues.

13.2.34 The Authority was aware that in certain cases, the Non-Aeronautical activities were concessioned out and are operated by different concessionaires from whom a Minimum Guarantee or a share is earned. However, in certain cases, the Airport Operator would carry out certain business ventures (either in the same company or through a controlled subsidiary), which are not allied to Airport Business. In these cases, the entire financial results of the operations would reflect in the financials of the Operator/ controlled subsidiary entity.

13.2.35 The Authority noted that BIAL has a subsidiary BAHL, which runs the hotel at the Airport. Revenues earned from the Hotel operations were reflected in the income statement of BAHL. The Authority understood that BIAL does not earn any revenues out of leasing out space to the Hotel.

13.2.36 The Authority had detailed its policy on consideration of Non-Aeronautical Revenues and decision to treat revenues arising out of monetisation of land development activities by considering 30% of the revenues as subsidisation towards Aeronautical charges.

13.2.37 The Authority had sought for details of the Income statement of the subsidiary, which had been submitted by BIAL. Summary information is presented below:

Table 59: BAHL Financials and projections submitted by BIAL (Rs. Crore)

Particulars	Audited 2016-17	Estimates 2017-18	Estimates 2018-19	Estimates 2019-20	Estimates 2020-21
Revenue from Hotel	27.84	61.10	70.17	80.61	88.59
Room Income	16.61	31.91	36.69	40.00	42.93
F&B Income	9.44	23.93	27.52	33.60	37.84
F&B - Others	1.28	1.15	1.32	1.60	1.85
Other Income	0.52	4.12	4.65	5.41	5.98
Total Revenue	**27.84**	**61.10**	**70.17**	**80.61**	**88.59**
Personnel	6.35	13.14	14.19	15.32	16.55
Raw Materials	2.91	5.92	6.81	8.32	9.37
Utilities	3.60	7.52	7.41	7.31	7.23
Rates & Taxes	0.24	0.26	0.27	0.29	0.30
Management Fee	0.37	2.39	2.94	3.55	4.01
Consultancy & Legal	0.44	0.49	0.54	0.59	0.65
Others	6.94	14.22	15.35	16.58	17.41
Net Operating Expenses	**20.85**	**43.94**	**47.52**	**51.96**	**55.51**
EBITDA	**6.99**	**17.16**	**22.66**	**28.65**	**33.08**
EBITDA % on revenue	**25%**	**28%**	**32%**	**36%**	**37%**
Financing Costs	18.28	35.80	34.20	31.67	29.02
Earnings before depreciation	**(11.29)**	**(18.64)**	**(11.54)**	**(3.02)**	**4.06**
Depreciation	15.08	31.00	31.12	31.21	31.31
PBT	**(26.37)**	**(49.64)**	**(42.67)**	**(34.23)**	**(27.25)**
Taxes	-	-	-	-	-
Profit/(Loss) after tax	**(26.37)**	**(49.64)**	**(42.67)**	**(34.23)**	**(27.25)**
PAT % on revenue	***-95%***	***-81%***	***-61%***	***-42%***	***-31%***

13.2.38 The Authority noted that the actual and projected results of the Hotel Operations incurred a loss. The Authority also noted that there was no income accruing to BIAL, even on the land area given on lease. The Authority accordingly proposed to consider a land lease rent for the area given on lease to the Hotel Operator, for the purpose of this control period, considering the losses in the Hotel. This would be reviewed again based on the changes in scenarios.

13.2.39 The Authority noted that BIAL had not carried out any other land development activities.

13.2.40 The Authority had also obtained the details of Security deposits raised by BIAL. The Authority understood that BIAL had obtained Security Deposits from Parties, which could also be used to fund the project expenses or reduce Non-Aeronautical Revenue. An amount of Rs. 148.34 crores as of 31st March 2012 and Rs. 208.08 crores as of 31st March 2016 was appearing as Security Deposit.

13.2.41 These Security Deposits could mean a reduction in the rentals/ charges collected from the respective users. The Authority accordingly proposed to consider notional revenue on the Security Deposits collected from Non-Aeronautical service providers.

13.2.42 The Authority was also cognizant of the large-scale Infrastructure development activities, which necessitated changes/ alternations to the space utilisation with the Terminal Building and possible change in landscape to the forecourts and the access roads, which could all impact the Non-Aeronautical earnings of the Airport Operator. Hence, while certain drivers or growth rates had been changed for the process of estimation, the actual results might vary from the estimates considered herein. Hence, the Authority proposed to review and true up the Non-Aeronautical Revenue based on actuals at the end of the current control period while determining tariff for the next control period.

13.2.43 Recomputed Non-Aeronautical Revenues as computed by the Authority was as follows:

Table 60: Recomputed Non-Aeronautical Revenues detailed in Consultation Paper 05/ 2018-19 (Rs. Crore)

Particulars	2017	2018	2019	2020	2021
Landside Traffic	63.34	71.26	80.16	90.19	101.46
Terminal Entry/Miscellaneous Income	0.18	0.18	0.18	0.18	0.18
Retail	108.32	121.86	137.10	154.23	173.51
Food & Beverage	31.88	35.87	40.35	45.39	51.07
Advertising & Promotions	71.77	70.00	73.50	77.18	81.03
Rents and Land Leases	2.92	4.32	5.52	6.79	8.39
Lounge Revenues	19.76	22.23	25.01	28.14	31.66
Utility Charges	0.00	0.00	0.00	0.00	0.00
Flight Catering	8.45	9.50	10.69	12.03	13.53
Non-Aviation Revenues - Others	0.00	0.00	0.00	0.00	0.00
Total Non-Aero Revenues	**306.62**	**335.22**	**372.51**	**414.12**	**460.82**
Add: Revenue considered for Land Lease - Hotel	9.26	9.26	9.26	9.26	9.26
Add: Revenue considered for Security Deposits	3.70	3.70	3.70	3.70	3.70
Total Non-Aero Revenues	319.58	348.18	385.47	427.08	473.78
Add: Interest Income on estimated cash	21.41	9.63	9.67	4.80	1.36
Total considered for computing 30%	**340.99**	**357.81**	**395.14**	**431.87**	**475.14**
Notes:					

Particulars	2017	2018	2019	2020	2021
1) Rent and Land Lease is reduced from BIAL estimation as balance is considered as Aeronautical to be considered as reduction in ARR for determining charges viz. Landing, Parking etc. 2) Utility income reduced from Operating Expenses hence no income considered 3) Non-Aviation Revenues projected by BIAL was towards Cargo, Ground Handling, Fuel Farm, ICT and related services which are considered as Aeronautical, hence are to be reduced from ARR while computing charges viz. Landing, Parking etc.					

13.3 Stakeholders' comments on Authority's analysis of Non-Aeronautical revenues

13.3.1 APAO has stated as follows:

"...We have observed that the Authority has proposed to consider notional revenue on the Security Deposits collected from non-aeronautical service providers.

We would like to highlight that security deposits are a usual feature in commercial lease agreements, which are to protect the lessor against damage caused to the lessor's property or to ensure timely payments from the lessees. They are not a compensation against rent, most certainly so in cases where rents are benchmarked to comparable contracts in the region and are to address owners' risk of non-payment of rents.

We would like to highlight that BIAL's security deposits are in line with the prevailing business practices and rates in the metropolitan region which eliminates the possibility of them being supplementary non-aeronautical revenues.

In light of the above, we would request AERA to re-examine the manner in which notional revenues has been applied in the case of BIAL and yet not consider them for tariff determination..."

13.3.2 BPAC has stated as follows:

"....KIAL has submitted to AERA that, its 100 per cent subsidiary, BAHL, has estimated to undergo losses all through the second control period. The request of KIAL to take cognizance of the above fact that BAHL has been in losses since its inception while issuing the tariff order should not be considered. This is a non-aero activity and if KIAL cannot find a way to make the hotel profitable, AERA should direct KIAL to find other suitable investors who have specialized skills and can manage this profitably. Further, we would also like to highlight that the hotel occupancy can be increased when the surrounding areas of the airport are developed. Hence the KIAL needs to develop the unutilized land, which would also bring in investments for the state while increasing the occupancy of the hotel and benefitting the hotel establishment..."

13.3.3 CIAL has submitted as follows:

"...Treatment of interest Income

AERA's Treatment

"Authority proposes to consider Interest Income, without any exclusions as Non-Aeronautical Income"

The interest income is primarily generated out of the company-wide surplus fund management activities of the company, which has no specific relation to any aeronautical or non- aeronautical services, rendered by the Airport operator.

It is exclusively an activity falling under the investment activities of the company and carried out as per the approvals granted by the respective Board of Directors from time to time. Hence, it may be considered as an activity outside the purview of regulated activities.

Considering Notional Revenues from Security Deposits

The security deposits collected from Non-Aeronautical service providers are refundable by the Airport Operator at any point of time, either on expiry or termination of the contract whichever is earlier. Hence there will not be any case of reduction in the rentals/ charges through security deposits.

Further, these security deposits which are been invested in airport related activities shall be treated as an equity capital in nature, as there is an opportunity cost associated with these security deposits.

Moreover, in the recent TDSAT Order in the case of DIAL, it was held that refundable security deposit cannot be considered as a zero-cost debt and its cost needs to be ascertained and made available through appropriate fiscal exercise at the time of next tariff determination. Hence, in view of the above facts, it is requested that Authority may consider security deposits as quasi equity and cost of equity may be allowed on the security deposits..."

13.3.4 Consumer Care Society (CCS) has stated the following:

"...To reconsider lounge and flight catering services in the light of the fact that property development activities will now fall within the ambit of non-aeronautical.

Tariff based on 30% hybrid till – but considering property development activities as non-aeronautical – Would be beneficial if this can be considered as a set off and the same reflected in reduced tariffs such as lounge services and utility services..."

13.3.5 HIAL has commented as follows:

"...Notional Income on non-aero deposits:

With respect to the deposit received by the airport operator from non-aero concessionaries, AERA in its order has considered notional revenue. Same has been considered as aero/ Non – Aero in line with the nature of service provided. Authority while considering notional revenue has stated following view:

The security deposits could mean a reduction in the Rentals/ Charges collected from the respective users. The Authority also proposes to consider notional revenue on the Security Deposit collected from Non-Aeronautical Service providers.

The consideration of Airport operator from Non-Aeronautical contract is mainly revenue linked & rental being charged at the standard prevailing rates. The Airport Operator considering the Security & performance aspect, which Is of utmost importance in case of Airport, has taken security deposit. By taking Security Deposit the Airport authority ensures that there is adequate stake involved and in case of any default the Security Deposit gets forfeited. This obligation leads the responsible operations by the concessionaires.

Also, as per the AERA Guidelines for the Airport Operators, AERA has to consider only 30% of Non-Aeronautical revenue. This does not include any notional revenue over deposits. Deposits are capital receipts & taken by Airport operator for specific reason for securing the cashflow. It does not reduce rentals or any other related Non-aeronautical revenue. The artificial revenue considered by AERA from these deposits is beyond its jurisdiction.

This is clearly biased approach of AERA in treating notional income over deposits from Non-aero. One side the deposit paid by the airport Operators as part of acquiring airport rights has not been considered in tariff determination & other side AERA considering notional income from the deposit received by the Airport operator from the Non-aero concessionaires. This will adversely affect airport operator to recoup its investment from the project. Rather these deposits in case used in airport project should be eligible for adequate return.

Further, it is pertinent to note that the working capital requirement of the airport operator has been reduced to the extent of the amount of Deposits, benefit of which has been reflected in the calculations of the Authority.

Accordingly, we request AERA not to consider any notional return on Non-Aero deposits.

Interest income being considered for cross subsidy purpose:

AERA in case of BIAL considered notional interest income on surplus cash available with the Company. Interest income relate to investment of interim surplus funds & retention of the shareholders' funds in the business till the same are paid out as dividends. Such incomes do not form part of either aeronautical or non-aeronautical revenues. Accordingly, this is outside regulatory purview.

Temporary surplus is primarily retained in the business for redevelopment at an opportune time. This is kept in the business by depriving the shareholders (without paying dividend) to meet future capital requirements. Hence taking away 30% of income from investment is penalizing the company on Cash management.

It is in the part of Airport Operator Cash management process. This revenue is neither generated from non-aeronautical services nor aeronautical services. It is only because of the *efficiency brought in by the airport operator in managing working capital. It is very unlawful that the airport operator is being penalized for efficient operation..."*

13.3.6 IATA has stated the following:

"...We agree with AERA's amendments. However, AERA may need to consider adding an inflation adjustment to the percentage increases (i.e. 12.5% + CPI) since it would be reasonable to assume that the revenue growth would be driven by passenger growth as well as inflation..."

13.3.7 Sanjeev V Dyamannavar as stated the following:

*"...**Commercial Activities Development at Airport:** It's also heartening to know from the BIAL management that, even after getting sufficient land (4000 Acres) which was given way back in 2005 when Airport construction started, they have not come out with any real estate plans to generate sufficient income as non-aeronautical. This is sufficient period of Twelve years where any big players in this business will have good strategy how to develop the land around airport and generate income out of it which is close to the Airport Terminal...*

Hotel BAHL at Airport Losses should not be considered by AERA: KIAL management has not made any serious efforts from the time agreement signed for the Hotel. Dispute started because AAI has not approved the height of Hotel as KIAL Management did not take permission on height of the Hotel building before the agreement signed. Even though KIAL had an option to give extra land of 4/5 acres from 4000 Acres to solve the dispute. In fact, KIAL management acted irresponsibly by refusing to allocate the additional land and kept 400 Acres of land at Airport non-utilized for 10 years and also no plans for next 10 years. On these, facts, AERA should not consider the losses from the Hotel. In fact, AERA should consider 10% from the Hotel Turnover as income to be added into Non-Aeronautical revenue.

Similarly, Non-Aeronautical Income projects are almost flat like Flight Catering, Terminal Entry, Food & Beverages, Rents & Land Lease. Request AERA to relook into the projections..."

13.4 BIAL's response to Stakeholders' comments on Authority's analysis of Non-Aeronautical revenues

13.4.1 On CCS's comments, BIAL has submitted as follows:

"...BIAL is unclear on CCS's submission to "reconsider" lounge and flight catering services as property development activities will now fall within the ambit of non-aeronautical activities. There is incoherence between the linkage of property development and lounge and flight catering..."

13.4.2 On Sanjeev V Dyamannavar's comments, BIAL has submitted as follows:

"...1) Respondent has inferred based on the perusal of the CP that the promoters of KIAB have not shown adequate interest in developing economic activities around the airport terminal which could have generated additional revenues to expand the airport.

2) The above submission of Respondent has been addressed above in point 78 para 5 to 8.

3) The Respondent has raised a similar concern stating that even after having sufficient land of approximately 4,000 acres, BIAL has not come out with any real estate plans to generate non-aeronautical revenues.

4) BIAL would like to reiterate that it was provided with approximately 4000 acres of land to cater to the demand and growth requirements during the entire concession period of 30 years. KIAB's development is according to the Master Plan, which gets updated periodically based on the traffic demand and growth. The Authority has been constituted as per the AERA Act to regulate only aeronautical services provided at the airport and BIAL submits that real estate developments are to remain outside the purview of regulation. Without prejudice, BIAL submits that commercial exploitation of unutilized land has to be evaluated on the basis of investments, return and market conditions.

A detailed response in this regard has been provided in BIAL's response to the CP.

Respondent has requested the Authority to re-look into the projection methodology for flight catering, terminal entry, food & beverages, and rents & land lease as the projected increase in them are "almost flat".

BIAL would highlight that it has already submitted a detailed response on the constraints on the growth of NAR such as F&B and flight catering in its response to the CP..."

Respondent has suggested that the Authority must not consider the losses of the airport hotel but consider 10% of the hotel's turnover as revenue to be added into non-aeronautical revenues of BIAL while determining tariffs.

BIAL submits that as per Schedule 3 Part B of its CA, commercial property development including hotels has clearly been defined as a non-airport activity. Further, the CA, LLD and other project agreements provides that non-airport activities of BIAL would continue beyond the concession period. The Clause 4.1 of the LLD clearly permits BIAL to undertake both airport and non-airport activities without seeking prior permission. The LLD does not envisage any form of cross-subsidization of airport activities and doing so will go against its principle objectives. Accordingly, the risk & rewards of the real estate business is to BIAL. The treatment of real estate as per the CA and other project agreements is detailed in BIAL's response to the CP and accordingly, hotel is to be treated as a non-airport activity and kept outside the regulatory purview.

Further, BIAL would like to highlight that the hotel is currently in losses and no revenues are accruing to BIAL. In the absence of any such revenues, the Authority has considered a *notional lease rental from the hotel as nonaeronautical revenue in the hands of BIAL, 30% of which is used to cross subsidize aeronautical charges. BIAL submits that notional lease rental should not be considered for cross subsidization as the same is outside the regulatory framework.*

However, BIAL submits that property development (including hotel) its corresponding income should be kept outside the purview of regulation and not be subjected to 30% SRT to respect the provisions of the CA and LLD, and commitments made in other project agreements......"

13.4.3 On BPAC comments, BIAL has stated as below:

"...1) B.PAC has stated that a significant portion of land parcel is lying unutilized and BIAL has not taken any steps to monetize the land despite having the potential to do so. This has led to severe loss of revenue to the exchequer and is placing huge burden on the passengers via higher UDF and PSF for meeting the development needs of KIAB.

2) The land was provided to BIAL so as to cater to KIAB's requirements for the entire concession period of 30 years. The airport Master Plan considers the entire demand potential for 30 years and provides for a phased development of the airport so as to meet the future demand. Accordingly, the utilization of land will not happen completely during the initial phase and will spread across different phases of the concession period.

3) Further, BIAL has made detailed submission as part of the response to the CP wherein it has reiterated that the land utilization towards real estate and the corresponding income and losses are outside the purview of regulation by the Authority. Further, it is reiterated that the CA does not provide for cross subsidization of any income from Non-Airport activities and hence, does not impact the aeronautical charges like UDF/PSF.

B.PAC has requested that the Authority should direct BIAL to find other suitable investors who have specialized skills to profitably manage the Hotel, which has been making losses since its inception and is estimated to continue to do so all through the Second Control Period. BIAL needs to develop the unutilized land, which would also bring in investments for the state while increasing the occupancy of the hotel and benefitting the hotel establishment. BIAL once again submits that the issue of commercial utilisation of land is not within the purview of this regulatory exercise. Likewise, BIAL submits that profitability or otherwise of the hotel, which is a non-airport activity is also beyond the regulatory ambit. B.PAC's request to the authority to exercise the jurisdiction in respect of these two issues may kindly be refused as the same are beyond the jurisdiction of the authority.

BIAL would like to point that Hotel is part of non-airport activity, as per Schedule 3 Part B of the CA. The Authority has been constituted as per the AERA Act to regulate aeronautical *services and, therefore BIAL submits that real estate activities are outside the purview of regulation.*

Without prejudice, BIAL submits that commercial exploitation of unutilized land has to be evaluated on the basis of investments, return and market condition...."

13.4.4 On IATA's comments, BIAL has stated as follows:

"....IATA has requested the Authority to consider adding an inflationary adjustment to the percentage increases in NAR, since it is driven by both passenger growth as well as inflation. BIAL disagrees with IATA's suggestion on increasing NAR by inflation and passenger growth in light of certain constraints due to which BIAL's NAR may not be able to reach the levels provided by the Authority. A detailed response provided in BIAL's response to the CP highlights these constraints, which include a possible reduction in areas given out on terminal concessions due to exponential traffic growth, a probable reduction in passenger dwell time in security hold areas impacting NAR etc..."

13.5 BIAL's comments on Authority's analysis on Non-Aeronautical revenues

13.5.1 BIAL has commented as follows:

Treatment of utility recoveries from concessionaires

AERA's Treatment

As per the CP, the Authority has stated as below with respect to the treatment of utility recoveries:

....

BIAL's Response: *- We would like to submit that as part of our contracts with various third-party concessionaires, BIAL charges the Concessionaires for the provision of infrastructure for utilities in addition to recovering the cost of utility charges as levied by various utility providers. Accordingly, the amount of revenue recoveries & recovery of charges to the Concessionaires are as below:*

Revenue recoveries for the provision of infrastructure for utilities

Recovery of cost of utility charges as levied by various utility providers. These are in the nature of pass through charges

As part of its tariff filing, BIAL had already considered the net cost of utilities as part of its Operating Cost projections after deducting any recoveries of pass through charges from the third-party Concessionaires.

BIAL would like to clarify that the recovery of revenues reduced from operating expenses by the Authority pertain to the charge for provision of infrastructure facilities as mentioned above. These are revenues earned by BIAL on account of the utility infrastructure provided up by BIAL, which are used by the concessionaires and not on account of utilities usage.

BIAL would like to highlight that even the Statutory Auditors have confirmed and accepted that utility recoveries towards provisioning of utility infrastructure is revenue in nature and instead of reducing utility recovery from operating expenses, the same needs to be accounted as revenue. Further, BIAL has been apportioning a concession fee on these recoveries. Hence, we submit that the categorization of the utility recoveries as revenues is the appropriate and consistent approach in terms of generally accepted accounting principles and also in the given general business / commercial practices.

It is also pertinent to note that such utility infrastructure has been set up in those areas of the terminal building, which are occupied by concessionaires; and are hence considered as non- aeronautical asset base for the computation of RAB. Therefore, setting-off such recoveries from aeronautical expenses would be inconsistent.

Further, as per Para 4.24 ICAO's Economic Manual (Doc 9562), payments received for services as heating, air conditioning, lighting, water, cleaning and telephone use are non-aeronautical in nature. An extract of the manual has been reproduced below:

"4.24 Other revenues from non-aeronautical activities. All other revenues the airport may derive from non-aeronautical activities. It would also include payments received by the airport for such services as heating, air conditioning, lighting, water, cleaning and telephone use, provided they are not included in the rental or concession fees, and for any services provided to non-aviation entities outside the airport."

Accordingly, BIAL requests the Authority to treat these revenue recoveries from various concessionaires as non-aeronautical revenues instead of reducing these revenue recoveries from utility expenses.

***BIAL's Submission: -** BIAL requests the Authority to consider the recoveries from third party Concessionaires on account of provision of infrastructure as non-aeronautical revenues.*

On Authority's consideration of notional revenues from Security Deposits

AERA's Treatment

As per the CP, the Authority has stated as below with respect to the consideration of notional revenues from security deposits:

....

***BIAL's Response: -** BIAL would request the Authority to have reference to its Airport Guidelines on the matter of Revenues from services other than aeronautical services (NAR). Para 5.6.1 of the Airport Guidelines prescribes the manner in which NAR needs to be reviewed, and an extract of the same has been given below:*

"5.6.1. The Authority's review of forecast of revenues from services other than aeronautical services may include scrutiny of bottom-up projections of such revenues prepared by the Airport Operator, benchmarking of revenue levels, commissioning experts to consider where opportunities for such revenues are under-exploited, together with the review of other

forecasts for operation and maintenance expenditure, traffic and capital investment plans that have implications for such activities."

The Airport Guidelines as given above do not mention the concept of notional revenues. Therefore, the Authority's consideration of notional revenues while reviewing the forecast of non-aeronautical revenues is not in accordance with the prescribed procedures given in the Airport Guidelines.

BIAL would like to submit that the reasoning provided by the Authority that the security deposits could have led to a reduction in the rentals/charges from respective users has no rationale and is not justified. The lease rentals of BIAL for various third-party Concessionaires are benchmarked and hence security deposits from non-aeronautical concessionaires are not being accepted in lieu of rental revenue.

Further, these deposits amount to approximately three months' rent, which is a common practice in the real estate business and is intended to protect BIAL against defaults, bad debts and damages caused to property. Security deposits have been used in the ordinary business operations or have been placed as fixed deposits with banks and such interest income is already considered as non-aeronautical revenues.

Impact of Security deposits in terms of reducing the requirement of working capital

While BIAL has obtained security deposits as a prudent business practice, it is worth mentioning that by investing the proceeds of security deposits into the airport business, BIAL has reduced its requirement for working capital. Accordingly, BIAL is already saving on interest, which would have been incurred on working capital loans, which the airport users would have otherwise had to bear in the form of higher aeronautical tariffs. Despite the above, the Authority has proposed to consider a notional interest on security deposit as NAR resulting in a two-fold setback to BIAL.

Impact of TDSAT Order – return to be provided on Security deposits

BIAL would like to draw the Authority's attention towards the TDSAT Order, which has allowed the airport operator a return on deposits of ~ Rs. 1,471 crores used for funding aeronautical assets, which were earlier given zero return while computing aeronautical charges by the Authority. Vide the above judgment, the Hon'ble TDSAT has upheld that security deposits should be treated as funds of the airport operator, and in the event these deposits are invested in the aeronautical business, the airport operator should be allowed to recover a return on such investment, as part of its aeronautical tariffs. The Hon'ble TDSAT ruled "Its cost needs to be ascertained and made available to DIAL through appropriate fiscal exercise at the time of next tariff redetermination."

In light of the above ruling where the Hon'ble TDSAT has allowed a return on security deposits in the case of DIAL, the Authority's proposal to assume a notional interest on these *security deposits and treat the same as non-aeronautical revenues of which 30% is used to cross- subsidize aeronautical operations is completely contrary to the TDSAT Order.*

Inconsistent treatment by Authority

BIAL submits that the Authority's treatment of notional revenues has not been considered in tariff determination of other airports. BIAL requests Authority not to go ahead with above inconsistent approach and any contrary approach will result into discriminatory treatment.

Further, BIAL requests the Authority to not consider notional revenue on security deposit but to allow a return on the proceeds of security deposits, as these have been invested in airport projects.

***BIAL's Submission:** - BIAL requests the Authority to adopt a consistent approach across all airports and to not consider a notional revenue on security deposit but to allow a return on the proceeds of security deposits, as these have been invested in airport projects.*

On Authority's consideration of notional land lease rent for the area given to the Hotel Operator as non-aeronautical income

AERA's Treatment

As per the CP, the Authority has stated as below with respect to the consideration of notional land lease rent for the area given to the hotel operator as non-aeronautical income:

....

***BIAL's Response:** - BIAL would like to reiterate, and adopt, its response to Proposal 1a for Property Development in Para 3.2.2.1. Hotel is part of Non-airport activity, as per Schedule 3 Part B of the CA. It is reiterated that CA does not provide for cross subsidization of any income from Non-Airport activates and also CA provides for non-airport activities to continue beyond the expiry of the concession period, they fall outside the purview of regulation. Therefore, any income from property development should not be considered for tariff determination.*

The Authority has considered a notional lease rental from the hotel as non-aeronautical revenue in the hands of BIAL, 30% of which is used to cross-subsidize aeronautical operations despite acknowledging the fact that the hotel subsidiary is currently in losses and such revenues are not accruing to BIAL. The approach of Authority to assume property development business will always generate profits and to assume notional revenues in absence of profits is not prudent. Such an approach affects the internal accruals that are available to BIAL.

In light of the above, BIAL requests the Authority not to consider notional lease rentals from the hotel while determining aeronautical charges for the Second Control Period.

No details were available on the basis of quantum of notional revenues that were arrived as part of CP

BIAL submits to the Authority that either basis or methodology of arriving at notional revenues with respect to land utilized for Hotel being provided in the CP. The potential of rentals from the utilization of the land can be varied depending upon the nature of the non-airport / RE business. It may not be prudent to assume rentals of an arbitrary nature and consider the same for Hotel.

Treatment of Interest earned on Security Deposit received from Hotel

BIAL would like to submit Authority that a Security deposit of Rs. 76.5 crore received from Hotel. An interest income of ~ Rs. 55 crores was earned from the above deposit. The interest income earned on this security deposit was considered outside the regulatory purview in the first control period but however the entire interest income generated is proposed to be considered as non-aeronautical revenue and thereby 30% of same was considered for cross subsidization by Authority.

***BIAL's Submission**: - BIAL requests the Authority to consider any revenues and costs from the Hotel business outside the regulatory purview in line with the provisions of its CA and not to consider any notional lease rentals from the hotel while determining aeronautical charges for the Second Control Period.*

On Authority's treatment of non-aeronautical revenues

AERA's Treatment

As per the CP, the Authority has projected a few non-aeronautical revenues to increase by 12.5%, which is in line with passenger traffic. The position of the Authority in each of them has been reproduced below:

....

BIAL's Response

Regarding Retail, F&B and Lounge Revenues

BIAL notes that the Authority has considered a substantial increase in the revenues pertaining to Retail, F&B and Lounge services as compared to the revenues projected by BIAL.

However, while BIAL would ideally like to enhance such revenues as much as possible, there are a number of constraints due to which our revenues may not be able to reach the levels provided by the Authority.

Significant impact on provisioning of Non-Aeronautical services due to exponential traffic growth

Firstly, BIAL has witnessed a substantial growth in passenger traffic over the last few years. While BIAL is currently designed to handle 20 million passengers per annum, it is already handling close to ~27 million passengers in FY 2017-18. Based on the projections of the Authority, BIAL would need to handle ~38 million passengers by FY 2020-21. Accordingly, to cater such higher traffic until operationalization of Terminal 2, BIAL may have to increase *the aeronautical area and consequently the areas given out on terminal concessions may have to be reduced. This is expected to result in a lower increase in select non-aeronautical revenues including retail, F&B and lounge revenues.*

Reduction in Dwell time in Security Hold Area impacting Non-Aeronautical revenues

Secondly, as BIAL's infrastructure gets stretched more number of passengers would have to be processed through the existing terminal area. With constraints on check-in area / security processing area etc., the passenger queuing / processing time is likely to increase and hence, passengers would take longer time to reach the security hold area. Consequently, passengers spend lesser time in the security hold area where they are most likely to spend on retail, F&B and lounges. Also, there would be constraints on the kitchen area, back of house/warehousing areas, which would also have an impact on sales.

Certain business are continuing in MAG

Thirdly, there are a number of concessions like Sim cards, forex & duty free business, which have Minimum Annual Guarantee ("MAG") arrangements with BIAL Airport and are still performing at MAG levels. Additionally, competition from e-commerce platform is making the business proposition tougher for these concessionaires and thus, these concessionaires are forcing BIAL to bring down the MAG.

Short term closure of Business to change in Contracts / Concepts

Additionally, current lounge contracts are due to expire by March 2019. This will require fresh tendering process for selection of a new concessionaire. The on-boarding of a new concessionaire for lounge through market discovery and creation / implementation of new concepts by the new concessionaire is expected to have impact on regular operations of the lounge for a period of 6 – 9 months and hence impact on the non-aero revenue.

In view of above, the Authority is requested to consider growth in retail, F&B and lounge revenues at 5% p.a. based on estimates of BIAL. In case BIAL is able to achieve higher revenue than estimates, the same is available for true up based on actuals at the time of determining aeronautical tariffs for the Third Control Period.

Landside Traffic revenues – Severe constraints impacting the growth Impact on Landside parking revenue – Severe constraints on parking slots

BIAL as part of its responses has already shared certain practical considerations regarding revenues from parking, taxi and limousine service. The growth opportunity in the parking revenues of BIAL would be constrained on account of the landside expansion works such as the multi-level car park, roadways, others projects which are projected over the Second Control Period. It is likely that more than 50% of the parking slots maybe lost during T2 expansion (flyover proposal). Moreover, proposed relocation of parking areas will be far from the existing terminal, which may increase the likelihood of passengers opting for other *modes of transport due to inconvenience. Additionally, increase in city traffic is also likely to discourage passengers from travelling to the airport using their own vehicles.*

Impact on Landside taxi revenue – Impact due to app taxi and public transport services

Further, the business of airport taxi operators has decreased due to competition from App based taxis and aggregators. The parking space at BIAL is constrained and will not able to accommodate the complete requirements of App based taxi service providers as well. Also, taxi usage is likely to be adversely affected by rising cab fares (due to State government regulations) and competition from public transport systems such as BMTC-buses and direct fly buses.

Impact on Limousine revenue – Continuing to be in MAG since inception of Airport

The limousine concession is currently running on the MAG and may decide to opt out of the Airport. Hence, BIAL's estimate of an annual increase in revenues of 5% p.a. in these revenue streams is a more appropriate estimate of the likely result as compared to a 12.5% p.a. increase considered by the Authority. In case BIAL is able to overshoot this estimate, the Authority would have recourse to a true up based on actuals at the time of determining aeronautical tariffs of the Third Control Period.

Flight catering business not expected to increase due to higher growth of LCC airlines

BIAL does not anticipate higher growth on account of passenger growth, as there is higher increase in LCC model as against FSC model. Passengers flying on LCC have the option of consuming or not consuming a paid meal, which is not available to passengers flying on full service carriers, where the cost of meal is included within the ticket. This is likely to reduce the growth rate of the airport's revenues from flight catering services. Accordingly, the same revenue per passenger of FY 2015-16 has been considered by BIAL for entire Second Control Period. The Authority is requested to consider the same towards determination of aeronautical charges for the Second Control Period. In case BIAL is able to overshoot this estimate, the Authority would have recourse to a true up based on actuals at the time of determining aeronautical tariffs for the Third Control Period.

BIAL's Submission:- The Authority is requested to consider the revenues projections from non-aeronautical services as per the submission made by BIAL and to review and true up the non-aeronautical revenues on actuals, at the time of determination of tariff for the next control period.

On Authority's treatment of interest income as non-aeronautical revenues

AERA's Treatment

As per the CP, the Authority has considered the following approach for interest income,

"Authority proposes to consider Interest Income, without any exclusions as Non-Aeronautical Income"

BIAL's Response: - Interest income is derived when surplus cash available with the airport operator is invested to earn interest income. Such investments have no relation with non-aeronautlcal or aeronautical services provided by the airport operator. Given the above premise, such interest income should belong entirely to BIAL and should be outside the regulatory purview. Therefore, it would not be appropriate to treat the same as non-aeronautical income and subject it to 30% SRT.

Authority may note that BIAL has been able to generate the surplus cash through better cash flow management. Such better cash management and surplus cash has facilitated Airport not to avail Working Capital Loan thereby avoiding the requirement of reimbursement of interest on Working capital from the Authority.

BIAL would like to submit that on multiple prior occasions, the Authority has treated interest income for the airport operator as revenue to be kept outside the regulatory purview. For e.g. in the case of Airports Authority of India (AAI) airports, any interest income has not been considered as non-aeronautical revenues.

***BIAL's Submission**: - BIAL requests the Authority to ensure consistency in its treatment of various building blocks of tariff determination across airports. As has been the treatment of interest income in the case of other airport operators, and considering the manner in which interest income is earned, BIAL submits to the Authority to remove interest income from the regulatory purview and consider it outside the 30% SRT.*

On review and true up of the Non-Aeronautical Revenues on actuals, at the time of determination of tariff for the next control period

***BIAL's Submission**: - BIAL submits that the non-aeronautical revenues for the current control period may differ from the projections considered for the determination of tariffs on account of factors such as changes in passenger traffic, passenger spending and consumption patterns, scale of airport operations etc.*

Accordingly, BIAL is in agreement with the Authority's proposal to true up the non-aeronautical revenues for the current control period, at the time of determination of tariff for the next control period..."

13.6 Authority's examination of Stakeholders' comments on Non-Aeronautical Revenues

13.6.1 Authority has carefully examined the comments made by BIAL and stakeholders on Non-Aeronautical Income. Authority's analysis on regulatory principles relating to manner of treatment of Land Development, Lease rentals from Aeronautical Service providers and Cargo, Ground handling and Fuel Farm revenues are detailed in Section 4 above. Other matters are being examined here.

Consideration of Interest Income as Non-Aeronautical Income

13.6.2 The Authority has carefully reviewed the comments from BIAL and other stakeholders that the Interest Income earned out of cash surplus should not be reckoned as "Non-Aeronautical Income".

13.6.3 The Authority notes that BIAL, in its MYTP submissions for the first control period and second control period has considered the same as "Non-Aeronautical Revenue" and seems to have, as an afterthought submitted that the same should not be considered even as Non-Aeronautical Revenue.

13.6.4 The Authority notes that the cash surplus generally generated by the Airport arises out of the Airports operations – which comprises of the Aeronautical and Non-Aeronautical activities. The cash surplus also is generated based on collection of determined ARR as charges and also where the collections of Aeronautical charges are beyond the estimated or eligible ARR due to increase in traffic volumes and other reasons.

13.6.5 The Authority notes BIAL's comment that this treatment is not consistent with what is done in AAI Airports. The Authority notes that even in AAI Airports, Interest Income has been netted off from Corporate Expenses before allocating the Net expenses to different Airports.

13.6.6 The Authority also notes that any cash surplus generated remains as Profit of the entity thereby adding the same to the "Reserves and Surplus" resulting in the same being considered as part of "Shareholder funds" for the purpose of computing the Equity and Debt gearing which is used to compute the Weighted Average Cost of Capital/ Fair Rate of Return.

13.6.7 Where the cash surplus is generated from Airport Operations and the incremental profit is part of the Shareholder funds used for computing FRoR, it is incorrect to exclude the income earned from them. The Authority proposes to consider such Interest Income only as part of Non-Aeronautical Income, considering that money is fungible and it could be difficult to segregate the cash on hand between surplus generated from Aeronautical Revenues and Non-Aeronautical Revenues.

13.6.8 Considering the above, the Authority decides to consider Interest income as part of the "Non-Aeronautical Revenues".

Notional Interest on security deposit collected from Concessionaires

13.6.9 The Authority has reviewed the submissions made by BIAL and the details provided by BIAL on the concessionaire wise Security Deposit. The Authority notes that these are general deposits kept as part of regular business in the nature of caution deposit. Accordingly, the Authority decides not to consider Notional Interest on Security Deposit for the present.

Utility recovery from Concessionaires

13.6.10 The Authority has carefully reviewed submissions made by BIAL on the nature of revenue that has been included under "Utility Recovery". The Authority notes that these are akin to Infrastructure support provided and in line with the manner of treating the Lease Rentals from Aeronautical Concessionaires, the Authority decides to consider the revenues from Aeronautical concessionaires included in the Utility Recovery (Approx. 60% of the total) as Aeronautical and adjust the same from Utility expenditure.

Hotel Project – Consideration of Notional Lease rent and Interest income earned from Deposit

13.6.11 Authority's principles on manner of treatment of Land monetization income is detailed in Para 4 above. Accordingly, revenue earned as Interest on cash being the deposit received from Hotel is treated akin to Non-Aeronautical Revenue and 30% Income considered on the same. Also, the Authority noted that BIAL has not earned any revenue from the Hotel. If the same facility viz. lease of land is provided to a third party, land lease rentals are the minimum value collected. Accordingly, the Authority has considered a notional lease rental and taken 30% of the same towards land lease rentals, considering that the hotel operations currently indicate a loss.

13.6.12 In case of BIAL, the Authority had proposed that since the hotel operations are currently a loss and there is no income earned by BIAL on the land given on lease to BAHL. Normally a tenant would have to pay rent for the land leased in by him. Therefore, the Authority had proposed to consider a notional lease rental at rates charged to other similar tenants in determining the ARR. The Authority notes comments from certain stakeholders complaining about the non-monetisation of the excess land available to BIAL for Commercial Development. While the land monetisation and the activities relating to the same are not regulated by the Authority, the Authority notes that there has to be income earned by BIAL on such Land monetisation activities which would subsidize the Aeronautical charges.

13.6.13 The Authority notes that in line with the above approach, any income earned from Hotel project, including Interest earned on deposit received from the Hotel Project, would be considered for cross subsidising considering a deduction of 30% of such income from the computed value of ARR. The Authority notes that in the order for the First Control period, income earned viz. Interest on Deposit was set aside pending final decision on manner of treatment of revenues from Land Development activities. Since these are now decided to be treated akin to Non-Aeronautical Revenues, Interest Income earned on deposit is also treated as part of income for cross subsidisation.

Incremental revenues considered by Authority in certain streams of Non-Aero Revenues

13.6.14 The Authority has noted comments from BIAL on the changes in Airport layout, re-alignment of space in Terminal Building area and expansion plans, which could impact the Non-Aeronautical Revenues. It is after considering the possible impacts of these that the Authority has considered a 12.5% increase in year on year revenues for certain heads of revenues as against the 5% considered by BIAL. The increase considered by the Authority is lower than the trend of actual increases in the past, to consider exactly the specific factors detailed by BIAL. Hence the Authority decides not to consider changes to the estimates detailed by the Authority in its Consultation Paper.

13.6.15 Based on the analysis of the above comments, revised Non-Aeronautical Revenues calculated by the Authority as under:

Table 61: Non-Aeronautical Revenues recomputed by the Authority for the purpose of adjustment to the ARR for the second control period (Rs. Crore)

Particulars	2017	2018	2019	2020	2021
Landside Traffic	63.34	71.26	80.16	90.19	101.46
Terminal Entry/Miscellaneous Income	0.18	0.18	0.18	0.18	0.18
Retail	108.32	121.86	137.10	154.23	173.51
Food & Beverage	31.88	35.87	40.35	45.39	51.07
Advertising & Promotions	71.77	78.00	81.90	86.00	90.29
Rents and Land Leases	18.17	23.01	24.39	25.83	27.62
Lounge Revenues	19.76	22.23	25.01	28.14	31.66
Utility Charges	2.22	2.22	2.22	2.23	4.25
Flight Catering	8.45	9.50	10.69	12.03	13.53
Non Aviation Revenues - Others	5.89	17.89	5.89	5.89	5.89
Total Non Aero Revenues	**329.98**	**382.02**	**407.89**	**450.10**	**499.46**
Add: Revenue considered for Land Lease – Hotel	9.26	9.26	9.26	9.26	9.26
Total Non Aero Revenues	339.24	391.28	417.15	459.36	508.72
Add: Interest Income on estimated cash	21.41	42.17	17.98	11.14	5.28
Total considered for computing 30% for adjustment	**360.65**	**433.45**	**435.12**	**470.49**	**514.00**

Notes:

1) Rent and Land Lease is reduced from BIAL estimation as balance is considered as Aeronautical to be considered as reduction in ARR for determining charges viz. Landing, Parking etc.

2) Non-Aviation Revenues mainly projected by BIAL was towards Cargo, Ground Handling, Fuel Farm, ICT and related services which are considered as Aeronautical, hence are to be reduced from ARR while computing other charges viz Landing, Parking etc.

Decision No. 10. Regarding Non-Aeronautical Revenues

10.a. Based on the material before it and its analysis, the Authority decides:

i. To consider Non-Aeronautical Revenues as detailed in Table 61 Para 13.6.15 above for determination of tariff for the second control period.

ii. To review and true up the Non-Aeronautical Revenues on actuals, at the time of determination of tariff for the next control period.

14 Cost of Equity, Cost of Debt and Fair Rate of Return

14.1 BIAL's submissions on Cost of Equity, Cost of Debt and Fair Rate of Return

Cost of Equity

14.1.1 BIAL had submitted that Cost of Equity had been computed considering the Capital Asset Pricing Model. BIAL's submissions are detailed below:

"...Cost of Equity for Control Period 2 has been computed using the Capital Asset Pricing Model (CAPM). For the purpose of this submission, BIAL has prepared the following scenarios using the same approach as used by AERA in Order No. 8/2014-15.

5.5.3.1 Approach considered for submission to be in-line with Authority's approach as per Order No. 8/2014-15

The values used for each of the parameters in CAPM and the corresponding logic/source are summarized below:

Component of CAPM	***Value***	***Logic/ Source***
Rf (Risk free rate)	*7.86%*	*10-year average of 10-year bond yield (2005 – 2015)*
Equity Risk Premium (ERP) for India	*8.01%*	*Revised ERP for India as per Aswath Damodaran approach (July 2015)*
Asset Beta (Ba)	*0.51*	*As suggested by NIPFP and AERA in Order No. 8/ 2014-15*
Debt (D)	*70*	*Expected Debt Equity Ratio for BIAL*
Equity	*30*	*Expected Debt Equity Ratio for BIAL*
D:E	*0.7*	*Expected Debt Equity Ratio for BIAL*
Equity Beta (Be)	*1.7*	*Ba/ (1-D:E)*
Ke (Cost of Equity)	*21.48%*	*Rf + Be*(ERP(India))*

Risk Free Rate (Rf)

As shown above, the Risk-Free Rate (Rf) has been considered as an average of 10 year bond yield of the past 10 years (01 January 2005 to 01 January 2015). This is the same as the methodology used by AERA and NIPFP in Order No. 8/2014-15. The Rf works out to 7.86%.

The Interest rates on Central and State Government Dated Securities – RBI have been provided in Annexure 6.

Equity Risk Premium (ERP)

As per Aswath Damodaran (2005), the Equity Risk Premium (ERP) of a developing/emerging market (EM) is calculated using the following formula:

ERP (EM) = ERP (Developed Market) + Default Risk Spread (EM)

This is the same formula as has been used by NIPFP and AERA in Order No. 8/2014-15.

Using the updated estimates by Damodaran (July 2015), the following is the revised calculation:

ERP (India) = ERP (US) + Default Risk Spread (India)

ERP (US) Is 5.81% and Default Risk Spread for India is 2.20% (given Moody's rating of Baa3). Thus the ERP (India) is considered as 8.01%.

The revised estimates of ERP as per Aswath Damodaran are provided in Annexure 7.

Asset Beta (Ba)

As per Order No. 8/2014-15 for BIAL, AERA has used the Asset Beta of 0.51 based on a report prepared by the Strategic Finance Group (SFG) for Air New Zealand. Hence for the purpose of this analysis, asset beta (Ba) has been considered at 0.51.

Debt: Equity Ratio

As part of its analysis, AERA had used the following formula for estimating the leverage

Leverage (D:E) = Debt / (Debt + Equity)

The Debt Equity Ratio in the Control Period 1 was 70:30 and the same has been considered in Control Period 2.

Equity Beta (Be)

Using the same approach as used by AERA in Order No. 8/2014-15, the asset beta is re-levered using the Debt Equity Ratio as follows:

Equity Beta (Be) = Ba/ (1-D:E)

This gives an Equity Beta of 1.7.

Cost of Equity (Ke)

Using the above inputs and the CAPM model, the Cost of Equity for BIAL is calculated at 21.48%. The following formula is used for this calculation:

*Ke=Rf + Be * (ERP (India))*

BIAL's eligible cost of equity

The Cost of Equity was also computed considering the latest available Equity Risk Premium and Asset Beta as per NIPFP April 2012 Report and the Cost of Equity has been arrived at as 24.66% as explained below.

Equity Risk Premium

Using the updated estimates by Damodaran (11 February 2016), the following is the revised calculation:

ERP (India) = ERP (US) + Default Risk Spread (India)

ERP (US) is 6.25% and Default Risk Spread for India is 2.44% (given Moody's rating of Baa3). Thus the ERP (India) is considered as 8.69%.

Asset Beta

In April 2012, in its paper titled "Cost of Equity for Private Airports in India – Comments on DIAL's response to AERA Consultation Paper No. 32, and the report by SBI Caps", NIPFP calculates Asset Beta for selected airports. This is the same sample as was considered by the SFG Report for Air New Zealand, which was used by NIPFP for suggesting asset beta as per Order No. 8/2014-15 for BIAL.

The table below is extracted from this April 2012 paper of NIPFP

...As seen above, the weighted average for the Asset Beta, when Debt Equity Ratio is at market value of equity is 0.61. Further, when Debt Equity Ratio is at book value of equity, asset beta is 0.58. When the median is taken, asset beta is 0.58 for both cases of Debt Equity Ratio. Hence for this computation, Ba is considered as 0.58.

The NIPFP Response to DIAL for Asset Beta Calculations – April 2012 is provided...

With these two changes, the revised Cost of Equity for BIAL becomes 24.66%. However, for the purpose of this submission, we request the Authority to consider the Cost of Equity as 21.48%..."

Cost of Debt

14.1.2 BIAL had submitted details of the loan taken for the initial project, T1 Expansion and other works and the proposed loans for the next phase of works. BIAL had submitted that initially a portion of funding was obtained through rupee loans with a small portion of the remainder amount from External Commercial Borrowings (ECB) loan from ICICI Hong Kong in USD. This USD loan had been fully hedged until final repayment in 2018 to take care of the exchange and interest rate risks associated with it. The T1 expansion loan was raised in INR only.

BIAL had proposed an Interest rate of 11.5% on the Rupee Term Loans proposed to be taken during the second control period for the future expansion works.

Fair Rate of Return

14.1.3 BIAL had computed Fair Rate of Return by considering Cost of Equity and Cost of Debt as above along with considering the State Support Loan as a source of funding.

14.1.4 As per BIAL, the basis for estimating Fair Rate of Return is as follows:

"...4.5.3 Fair Rate of Return (FRoR)

Based on the projected Cost of Debt and Equity as detailed above, a combined weighted average is computed. Borrowing received from Government of Karnataka, as a State Support Loan has been considered as part of Debt.

The weighted average gearing for the second Control Period is calculated based on the projected values of debt and equity, including accruals, at the end of each year.

FRoR is computed as mentioned below:

*FRoR = (WG (Debt) * Kd) + (WG (SS) * Ks) + (WG(Equity)*Ke)*

where,

WG (Debt) – Weighted average gearing of Debt to Total Debt + Equity

WG (SS) - Weighted average gearing of State Support to Total Funds

WG (Equity) - Weighted average gearing of Equity to Total Debt + Equity..."

Accordingly, the FRoR computed by BIAL as part of the revised Business Plan submitted in April 2017 is as follows:

Table 62: FRoR computed by BIAL for second control period

Particulars	2016-17	2017-18	2018-19	2019-20	2020-21
Cost of Funding Sources					
Ke	21.48%	21.48%	21.48%	21.48%	21.48%
Ks	0.00%	0.00%	0.00%	0.00%	0.00%
Kd	11.47%	11.47%	11.47%	11.47%	11.47%
Weighted average gearing (WG) of Equity	60.33%	60.33%	60.33%	60.33%	60.33%
Weighted average gearing (WG) of SS	3.57%	3.57%	3.57%	3.57%	3.57%
Weighted average gearing (WG) of debt	36.10%	36.10%	36.10%	36.10%	36.10%
Total	100.00%	100.00%	100.00%	100.00%	100.00%
FRoR	17.10%				

14.2 Authority's analysis of Cost of Equity, Debt and Fair Rate of Return detailed in Consultation Paper

14.2.1 An overview of the shareholder's funds and loan funds of BIAL as of March 2016 was as below:

Table 63: Overview of Shareholders' Funds (Rs. Crores)

Particulars	2008-09	2009-10	2010-11	2011-12	2012-13	2013-14	2014-15	2015-16
Share Capital	384.60	384.60	384.60	384.60	384.60	384.60	384.60	384.60
Reserves & Surplus	-150.31	-72.50	59.59	220.35	324.67	391.78	467.09	904.72
Shareholder Funds	234.29	312.10	444.19	604.95	709.27	776.38	851.69	1,289.32
Secured Loans	1,408.96	1,379.91	1,285.63	1,128.02	1,816.27	1,911.10	1,641.88	1,349.02
Unsecured Loan - State Support	330.52	333.50	333.50	333.50	333.50	333.50	332.50	332.50
Others	3.04	1.76	0.13	0.03	0.03	0.03	0.03	10.03
Loan Funds	1,742.52	1,715.17	1,619.26	1,461.55	2,149.80	2,244.63	1,974.41	1,691.55
Total Funds	1,976.81	2,027.27	2,063.45	2,066.50	2,859.07	3,021.01	2,826.10	2,980.87

Cost of Equity

14.2.2 Authority noted that BIAL had considered Cost of Equity at 21.48% in its MYTP computations and as per the submissions made, BIAL had estimated its Cost of Equity to be 24.66%. The

Authority understood that BIAL had applied the Capital Asset Pricing Model (CAPM) to arrive at the Cost of Equity values.

14.2.3 The Authority noted the request for a higher % of cost of equity as computed by BIAL. The Authority also noted that BIAL had established and had been running the airport for 10 years with consistent trend of profits. The Authority also noted the increase in Passenger base of BIAL and the growth in passenger traffic in the past 3 years.

14.2.4 The Authority had elaborated its detailed considerations on the risk assessment of Kempegowda International Airport in its MYTO-CP1. The Authority noted that there were no adverse scenarios affecting the risk assessment of BIAL airport, on the contrary, very favorable traffic and profitability had been witnessed over the last 3 years from the time of issue of MYTO-CP1. Considering the past operations, profitability and established traffic base, the Authority proposed to consider return on equity at 16% for BIAL for the second control period, in line with the decision taken on Cost of Equity in the first control period.

14.2.5 The Authority also proposed to carry out a study on Cost of Equity for Airports and consider the results at the time of true up based on actuals for the second control period.

Cost of Debt

14.2.6 With respect to Cost of Debt, the Authority had sought clarifications and details from BIAL on whether the funding had been tied up for the expansion project and the rate of interest at which loans are tied up. BIAL had submitted to the Authority that the funding for the planned expansions were yet to be tied up.

14.2.7 The Authority also noted that while BIAL has proposed Interest rate of 11.5% in its submissions, financial statements for the year 2016-17 indicated that the existing loans had been refinanced with SBI with Interest rate of around 9.9%.

14.2.8 Also, the Authority noted that Reserve Bank of India had issued guidelines for setting lending rate of loans under the name - marginal cost of funds-based lending rate instead of the base rate from April 2016.

14.2.9 Considering the above, the Authority proposed to consider an interest of 10.25% for the second control period.

14.2.10 The Authority understood that the funding for the Initial project and Terminal 1 expansion happened through Equity and Debt. The Authority also understood that an unsecured Interest free loan had been given by GoK called as state support loan, which was also used to fund the Initial phase of project.

14.2.11 The Authority also noted that the state support loan has been taken from GoK at no interest and accordingly, BIAL had considered the same as part of funds at zero cost.

Fair Rate of Return

14.2.12 The Authority understood that BIAL had invested in subsidiary Bangalore Airport Hotels Limited in December 2013. From the Balance sheet of BIAL as of 31st March 2016, the Authority noted that BIAL had invested an amount of Rs. 2 Crores in Equity of the entity. Also, an amount of Rs. 220.27 crores appeared as Long-Term loans and advances as being given to BAHL under "related party disclosures" in the Financial statements. The Authority noted that BIAL had invested funds as Long-Term Investments in other businesses not relating to Airport Operations.

14.2.13 The Authority proposed to re-compute FRoR considering the below factors:

14.2.13.1 Exclude Investments in other businesses for computing Equity for FRoR.

14.2.13.2 Compute FRoR considering Shareholder funds, Debts and Interest Free State Support Loan.

14.2.13.3 Considering changes in gearing in the Business plan to utilise debt drawings to the maximum. (The Authority noted that the Business Plan projected Debt and Equity and Gearing based on the changes made to ARR).

14.2.14 Based on changes to other factors of the Regulatory Building Block (Changes to Capex etc.) and the changes to FRoR detailed above, the Authority had recomputed the Fair Rate of return as follows.

Table 64: Recomputed FRoR as per Authority as detailed in Consultation Paper 05/ 2018-19

Fair Rate of Return as computed by the Authority	For the Second Control Period
Cost of Funding Sources	
Ke	16.00%
Ks	0.00%
Kd	10.26%
Weighted average gearing (WG) of Equity	27.92%
Weighted average gearing (WG) of SS	5.17%
Weighted average gearing (WG) of debt	66.91%
FRoR	11.33%

14.2.15 The Authority noted that the loan taken by BIAL carries a floating rate of Interest. The Authority was also aware that the actual Equity and Debt balances may change from the estimates based on various factors including Capital Expenditure, Revenues collected and other components of the ARR. The Authority accordingly proposed to true up the cost of debt, changes to cost of equity based on results of study, if necessary and the FRoR based on change in gearing, during the current control period.

14.3 Stakeholders' comments on Authority's analysis of Cost of Equity, Cost of Debt and Fair Rate of Return

14.3.1 Consumer Care Society (CCS) has stated the following:

"...Capital mix for the funding of future expansion of the airport including additional runways should be more debt based..."

14.3.2 APAO has submitted as follows:

"...The Authority has reduced BIAL's investment in its hotel subsidiary BAHL from BIAL's equity while computing a fair rate of return to be allowed on BIAL's aeronautical RAB. While on one hand the Authority has treated the revenues from BAHL as non-aeronautical revenue, on the other hand it has ring fenced the investment in Hotel which is contrary and inconsistent in nature. Accordingly, we would request the Authority to consider the capital structure of the entire airport entity as a whole rather than dividing the same into multiple fragments, to avoid such complexities and to maintain consistency across airports..."

14.3.3 IATA has stated the following:

"...We note AERA's proposed cost of capital being for the second control period. While we agree that this could be used provisionally, we believe necessary for AERA to outsource a study on cost of capital items (not just cost of equity, but also gearing, asset beta, etc) and make the necessary amendments in the next control period.

Separately, we see the cost of debt assumed by AERA of 10.25%, and that it will true up this cost with actual cost of debt. We suggest that a ceiling it also implemented by AERA, as otherwise, the airport may not be incentivised to look for the most efficient cost of debt (as it would know that whatever rate it achieves it will be trued up)..."

14.3.4 Sanjeev V Dyamannavar has stated the following:

*"...**Interest Free loan from GOK:** We would like to bring to AERA's attention that Karnataka Cabinet took decision on June 22, 2018 to put off the loan repayment of interest-free loan of INR 333.50 Crore, which was given by GoK to the BIAL as part of SSA during 2005. The repayment of this loan was supposed to start during 2018 and the same has been put off by another 10 years. Effectively GoK has given interest free loan of INR 333.50 Crore for 20 Years period. We request AERA to consider this while truing up of funds requirement for the current fiscal year and for subsequent periods totalling to next 10 years while fixing the tariff for second and third control periods.*

***Payment of Dividend:** Already AERA has made provisions for return on Capital and Equity investment, AERA should allow Dividend payment to shareholders after ensuring UDF is ZERO so that passengers are not burdened..."*

14.3.5 FAIRFAX has stated the following:

"...Inadequate returns being provided by AERA, which is not in line with the original bid premise.

The success of PPP to a large extent depends on optimal risk allocation amongst stakeholders, robust enabling ecosystem, sound regulatory and arbitration framework to ensure smooth implementation of projects. It is important to note that the Concession Agreement has elements to protect the economic interest of shareholders and lenders investing in the airport project. The shareholders/lenders committed their investment in the project based upon the financial model, which reflected an internal rate of return of 21.66%. The Regulatory approach of providing 16% return on equity investments in aeronautical assets has translated into an even lower return on equity, which does not reflect the risks involved, and the high uncertainty in these projects.

We request the AERA to look at allowing reasonable returns, based on Capital Asset Pricing models, and recommend a fair rate of return to the airport investors.

In order to attract the requisite sum of investments and to ensure that the sector is poised towards a compelling future, the regulatory framework must adhere to the Concession Agreement and other allied agreement..."

14.3.6 Siemens has stated the following:

"...Requirement of adequate returns in airport project: The Success of PPP to a large extent depends on optimal risk allocation amongst stakeholders, robust enabled ecosystem, Sound Regulatory and arbitration framework to ensure smooth implementation of projects. It is important that the concession agreement has the elements to protect the economic interest of the shareholders and lenders investing in the airport project, the shareholders/ Lenders committed their investment based on the financial model, which reflected an internal rate of return of 21.66%. The regulatory approach of providing 16% return on Equity investments in aeronautical assets has translated into an even lower return on equity, which does not reflect the risks involved, and the high uncertainty in the projects.

We request AERA to look at allowing reasonable returns, based on capital asset pricing models and prescribe a fair rate of return to the airport investors..."

14.4 BIAL's response to Stakeholders' comments on Authority's analysis of Cost of Equity, Cost of Debt and Fair Rate of Return

14.4.1 BIAL has concurred with the comments submitted by GoK and APAO.

14.4.2 On comments from IATA, BIAL has submitted as follows:

"...1) BIAL has made a submission of Cost of Equity at 21.48% in accordance with CAPM methodology and the same approaches used by the Authority for the First Control Period vide Order No. 08/2014-15. While the Authority has considered Cost of Equity at 16% for CP, BIAL is open to an independent comprehensive study pertaining to all the elements of cost of capital (including cost of equity, gearing, asset beta, etc.) as this is in line with the TDSAT

Order directing the Authority to improve their estimation of Cost of Capital through a scientific and objective exercise.

2) We also concur with IATA's view that based on the findings of such a study, the Authority shall accordingly true up during tariff determination for the Third Control Period. However, as has been pointed in BIAL's response to the CP in the absence of details on the terms and scope of such study, BIAL reserves its right to respond to such a study at a later date.

3) Finally, in the context of truing up the cost of debt, BIAL wishes to submit that BIAL has proposed a rate of 11.5% p.a. against which the Authority has considered a rate of 10.25% p.a. in view of the guidelines issued by the Reserve Bank of India for setting lending rate of loans under the marginal Cost of funds-based lending rate instead of the base rate from April 2016. IATA's view of implementing a cap on the true-up owing to interest rates being uncertain and prone to market-based fluctuations, are completely outside BIAL's control. In such a scenario, proposing to cap the true up of cost of capital may lead to the airport suffering undue losses. In a regulated environment, the proposed cap on true up is neither justified nor fair...."

14.4.3 On comment by CCS, BIAL has submitted as follows:

"...Infrastructure lending by banks are based on RBI guidelines, loan structuring, credit rating, and profitability of the Company among others. Also, banks would require for BIAL to maintain certain minimum financial covenants including:

Interest coverage ratio,

Debt service coverage ratio and

Fixed asset coverage ratio.

And, the Authority has already considered a high gearing of 74% for future expansion projects while the possible debt funding by banks will be in the range of 70%...."

14.4.4 On comments from Sanjeev V Dyamannavar (Respondent), BIAL has submitted as follows:

"...Respondent has commented that based on the manner in which GoK and GoI have given concessions in terms of land, interest free loan, wavier of taxes during construction among others it appears that both the state and central governments would like KIAB to be developed and operated efficiently as a self-sustainable venture without being a burden on either the government or the airport users.

BIAL submits that KIAB is a PPP project and is governed by the CA and other project agreements and operates within the regulatory framework as prescribed by the Authority and other government agencies. All the concessions that were provided as part of the award of the airport project have been recognized and taken into consideration in terms of running the PPP project appropriately.

Respondent proposes that the Authority must allow dividend payments to shareholders only when there is zero UDF at the KIAB. BIAL submits that the declaration of dividend is a decision of the BIAL Board in consonance with the Companies Act 2013 and as per the provisions of the Shareholders Agreement as well.

However, 92% of the internal accrual generated by BIAL is ploughed back into the airport business for capacity expansion, servicing debts or running the airport. Only 2% of the internal accrual generation has been disbursed to the shareholders as dividends.

Further, BIAL would like to submit that it is entitled to collect various aeronautical charges, including landing, parking, housing and UDF charges. The Authority determines the ARR for the given control period and provides flexibility to the airport operator to determine the revenue to be collected in terms of various charges as explained above. At the end of control period the Authority calculates the eligible revenue and the actual revenue collected (including UDF) and any surplus / deficit of revenues will be trued up while determining tariff for the subsequent control period.

In lieu of the above, BIAL submits that there is no coherence between payment of dividends and ensuring zero UDF. Any linkage between payments of dividends and UDF charges appears to be a misconception.

Respondent has requested the Authority to consider the Karnataka Cabinet's decision on 22.06.2018 to defer the loan repayment of interest-free loan by another ten years while determining tariffs.

As per the Authority's working in CP, BIAL would require an equity infusion of approximately Rs. 413 crore for future expansion and operational requirements during the Second Control Period. In support of BIAL's current capital expansion and funding requirements, the repayment of interest free loan has been deferred for a further period of 10 years (vide Government Order no. IDD -111DIA 2017 – dated 29.06.2018). The same is to be considered by the Authority for tariff determination..."

14.5 BIAL's comments on Authority's analysis on Cost of Equity, Cost of Debt and Fair Rate of Return

14.5.1 BIAL has submitted as follows:

"...Cost of Equity being considered at 16% instead of BIAL submission at 21.48% as per CAPM approach"

AERA's Treatment

As per the CP, the Authority has stated as below with respect to the cost of equity:

......

BIAL's Response: *- BIAL has considered its Cost of Equity at 21.48% compared to 16% proposed by the Authority. As per the Authority's Airport Guidelines, 2011 airport operators* *need to submit an assessment of cost of equity based on Capital Asset Pricing Model (CAPM) with supporting evidence including:*

The risk-free rate

The equity market risk premium

Equity beta

BIAL has gone precisely by the requirements of the Authority and computed its Cost of Equity using CAPM and submitted the same along with all supporting information. A summary of BIAL's computation of Cost of Equity is as given below: -

Components of CAPM	Value	Logic/source
Rf (Risk free rate)	7.86%	10 year average of 10 year bond yield (2005-2015)
Equity Risk Premium (ERP) for India	8.01%	Revised ERP of India as per Aswath Damodaran approach (July 2015)
Asset Beta (Ba)	0.51	As suggested by National Institute of Public Finance and Policy and the Authority in Order No. 8/2014-15
Debt (D)	70	Expected Debt Equity Ratio for BIAL
Equity (E)	30	Expected Debt Equity Ratio for BIAL
D:E	0.7	Expected Debt Equity Ratio for BIAL
Equity Beta (Be)	1.7	Ba/(1-D:E)
Ke (Cost of equity)	21.48%	Rf + Be*(ERP (India))

As BIAL's approach to computing its Cost of Equity is exactly as per the approach adopted by the Authority, there is no reason for the Authority to deviate from its guidelines and propose a lower Cost of Equity for BIAL. Accordingly, BIAL request the Authority to allow it to consider 21.48% as it Cost of Equity.

BIAL's Submission: *- BIAL requests the Authority to consider the Cost of Equity at 21.48% based on the justification provided by BIAL.*

On Authority's proposal to commission a study on Cost of Equity and consider the results of the same at the time of truing up Second control period revenues.

BIAL's Submission: *- BIAL has noted the Authority's proposal to commission a study on Cost of Equity and consider the results of the same at the time of truing up Second Control Period revenues. At this stage, since we are not aware of the terms and scope of such study, BIAL reserves its right to respond to such a study at a later date.*

Further, till the time such study is completed, BIAL requests that the Cost of Equity as per BIAL submissions above is considered for the determination of aeronautical charges. Any surplus or deficit resulting from the proposed study may be considered at the time of true up.

On Authority's proposal to consider the Cost of Debt at 10.25%

AERA's Treatment

As per the CP, the Authority has stated as below with respect to the cost of debt:

.....

***BIAL's Submission:** - BIAL would submit to the Authority that interest rates are uncertain and fluctuate based on market factors. BIAL assures the Authority of its best efforts of trying to confine its interest outflows to a rate below 10.25% p.a. However, in case the interest rates for BIAL harden over time, BIAL requests the Authority to be considerate on that account and allow a true up while determining tariffs for the Third Control Period.*

On Authority's proposal to consider the FRoR as detailed in Table 61 Para 12.2.14 of the Consultation Paper for the purpose of computing ARR for the second control period and Ring-fencing BIAL's investment in the hotel for the purpose of FRoR

AERA's Treatment

As per the CP, the Authority has stated as below with respect to the determination of Fair Rate of Return (FRoR):

......

BIAL's Response

Contradictions identified in the Authority's Treatment

The Authority has treated hotel as a non-aeronautical activity but ring-fenced / excluded equity investments into the hotel while computing Equity for FRoR. As discussed earlier, the Authority considered revenues from property development as non-aeronautical revenues in the following ways:

Security Deposit of Rs. 76.5 crore received from hotel is considered as part of tariff determination. A notional interest on these security deposits have been factored in as a non-aeronautical revenues and subjected to 30% SRT.

A notional lease rental has been considered from hotel and treated as non-aeronautical revenues. The Authority has never considered such a notional rental in any of the previous exercises of tariff determinations.

In the normal regulatory practice, investments in non-aeronautical businesses were never ring-fenced /excluded from Equity while computing FROR.

Further, equity investments of BIAL in the hotel are ring fenced for the purpose of computing FRoR. However, the basis for such treatment not explained by Authority in the Consultation Paper. BIAL may have to interpret that investments were excluded from Equity computation as hotel is a non-airport / RE business. The treatment of considering hotel revenues as non-aeronautical and not considering investment in hotel business is a contradiction and inconsistent. Such an approach is to the detriment of BIAL. ...

It is worth mentioning that while BIAL's investment in the hotel has been ring-fenced from Equity for the purposes of computing FRoR, all the benefits of the hotel, i.e. cashflow support on account of security deposit, interest earned on security deposit, notional lease rentals etc. have been considered for tariff computations. BIAL would like to highlight that *this position of the Authority is despite the fact that funds collected from the security deposit of the hotel has also been deployed back into the airport business. Such a treatment is inconsistent and to the detriment of BIAL.*

Arbitration award involving the hotel

BIAL would like to highlight that it had to adhere to arbitration award under which it had to acquire hotel Bangalore Airport Hotel Limited ('BAHL'). The Authority is requested to take cognizance of the fact that BAHL has been in losses since its inception before finalizing its regulatory treatment while issuing a tariff order. ...

***BIAL's submission:** Based on the above, BIAL requests the Authority to consider the investment in the hotel subsidiary as a non-airport activity and outside the regulatory purview in line with the provisions of its CA.*

On true up of the Cost of Debt based on any changes to Interest rate and to true up the Fair Rate of Return based on changes to the gearing between Equity and Debt considering actual position for the control period, at the time of determination of tariff for the next control period.

***BIAL's Submission:** BIAL submits that the Cost of Debt and FRoR for the current control period may differ from the projections considered for the determination of tariffs on account of fluctuations in interest rates and changes in capital structure respectively. Accordingly, BIAL is in agreement with the Authority's proposal to true up the Cost of Debt and FRoR for the current control period, at the time of determination of tariff for the next control period..."*

"...BIAL request Authority to ring fence the Non-Airport activities and not to consider the notional lease rental and interest income from Hotel. Further, the Authority may ring fence the net investments in Hotel after reducing the security deposit (Rs. 76.5 crore) and interest (Rs.55 crore) while adjusting Equity investments for arriving at FRoR..."

14.6 Authority's examination of Stakeholders' comments on Cost of Equity, Debt and FRoR

14.6.1 The Authority has carefully reviewed comments from BIAL and other stakeholders.

14.6.2 The Authority notes that BIAL has submitted that the Cost of Equity may be considered as per BIAL submission. The Authority notes that the Authority had considered cost of equity at 16% in the Order of the First Control period. BIAL has used the same formula and considered the current Risk Premium for India and Equity Beta and computed the Cost of Equity. Authority notes that there are no adverse changes to the risk profile of Indian Airports; in the contrary, the current traffic scenarios are favourable to Airport Operators. Considering that the study was done earlier in time, Authority had proposed to carry out a study on cost of equity and true up the ARR based on the results of the study. Accordingly, the Authority decides to consider Cost of Equity on the same basis as that proposed in the Consultation Paper.

14.6.3 The Authority notes BIAL's request for true up of debt based on actuals. The Authority will review the reasonableness of the cost of debt contracted by BIAL and based on the evaluation, true up the same.

14.6.4 The Authority also notes that BIAL and other stakeholders have indicated that since the income is considered as "Non-Aeronautical Revenues" the investment in such operations, which was excluded from Equity for the purpose of computing the Gearing, should be considered as part of the Equity deployed in Airport Project and not excluded. The Authority notes that for reasons stated in Para 4 above, since the land was given on lease to BIAL with a clear purpose and objective and BIAL cannot be expected to earn more than reasonable return from a land given at very low prices/ rentals, income from such activities is being considered for cross-subsidising the Aeronautical charges. This does not mean that any investment made by the Airport Operator in other than Airport Business, would be considered for computing applicable Gearing for providing return on Airport Assets/ RAB.

14.6.5 However, the Authority notes that BIAL had highlighted that in carrying out the adjustment, "net invested value, after adjusting the deposit received from Hotel" was not considered but the gross value was considered. This has been taken note of by the Authority and only the net value is taken into consideration by the Authority in the final Order.

14.6.6 The Authority, during reconciliation of model for Final Order with BIAL had noted that the cost of debt in 2016-17, before re-financing was higher at around 11%. The Authority has considered the actual cost of debt for 2016-17 and 2017-18 and trued up the cost of debt.

14.6.7 The Authority has also considered the actual position of Debt and Equity in 2016-17 and 2017-18 based on updation of actual revenues and projections based on projected revenues for the balance years in the control period and computed the Equity Debt Gearing.

14.6.8 Based on the examination and above analysis, revised FRoR calculated by the Authority is as under:

Table 65: FRoR computed by the Authority for computing return on RAB

Fair Rate of Return as computed by the Authority	Percentage
Cost of Funding Sources	
Ke	16.00%
Ks	0.00%
Kd	10.39%
Weighted average gearing (WG) of Equity	37.06%
Weighted average gearing (WG) of State Support (Soft Loan)	5.23%
Weighted average gearing (WG) of debt	57.71%
FRoR	**11.93%**

Decision No. 11. Regarding Cost of Equity, Cost of Debt and Fair Rate of Return

11.a. Based on the material before it and its analysis, the Authority decides:

i. To exclude "net investment" made by the Airport on Projects other than Airport as a reduction from Equity deployed for Airport Project, for computing gearing used to calculate the Fair Rate of Return.

ii. To consider Cost of Equity at 16% for computation of Fair Rate of Return.

iii. To commission a study on Cost of Equity and consider the results of the same at the time of truing up Second control period revenues.

iv. To consider the FRoR as detailed in Table 65 Para 14.6.8 above for the purpose of computing ARR for the second control period

v. To true up the Cost of Debt based on any changes to Interest rate and to true up the Fair Rate of Return based on changes to the gearing between Equity and Debt considering actual position for the control period, at the time of determination of tariff for the next control period.

15 Taxation matters

15.1 BIAL's submissions on Taxation matters

15.1.1 BIAL in its submissions had stated that they were entitled to a tax holiday under Section 80 IA of Income Tax Act for 10 years in the period of first 15 years of operations. During this period, they were required to pay the Minimum Alternate Tax on the Book Profits of the company. BIAL had submitted that they propose to avail this tax holiday from the Financial Year 2012-13 for a period of 10 years. During the 5 years of the control period, BIAL proposed that they would be paying only the Minimum Alternate tax (MAT) as applicable. The company had considered rate of MAT at 20% plus surcharge for the control period.

15.1.2 BIAL had submitted as follows:

> *"...Direction No. 5/2011-12 details that the actual tax payments projected for tariff computations will be allowed as a reimbursement in arriving at the Aggregate Revenue Requirement.*
>
> *The computation of projected income tax payments has been made based on the prevailing Income Tax laws and rules.*
>
> *Tax Computations also considered MAT provisions and 80IA of Income tax act. BIAL is eligible for Income Tax holiday for a continuous 10-year period, starting FY 2012-13, in the first 15 years since AOD. BIAL plans to avail the benefit during the second control period also. Accordingly, the tax payment projections for the second control period is based on Minimum Alternate Tax computed on Book profits, as given below..."*

15.1.3 Accordingly, the MAT payments proposed to be included as part of the Aggregate Revenue Requirement, as submitted by BIAL under Hybrid Till were as detailed below:

Table 66: Tax outflow considered as part of ARR computations under Shared Till by BIAL for second control period (Rs. Crores)

Particulars	2017	2018	2019	2020	2021
Aero PBT	962	1,127	1,195	1,360	1,287
Effective Tax rate	21.41%	21.43%	21.45%	22.10%	22.95%
IT Reimbursement	205.85	241.47	256.32	300.46	295.29

15.1.4 BIAL had also submitted as follows:

> *"...As the financial projections are based on Indian GAAP, the tax computations are also based on the same income base with adjustments required under the Income tax provisions. However, impact due to application of IND AS and Income Computation and Disclosure Standards (ICDS) is yet to be ascertained due to lack of clarity. BIAL would like to submit to the Authority that any impact on tax computation due to proposed changes in IND AS and ICDS will be submitted to Authority for necessary consideration and tariff computation..."*

15.2 Authority's analysis of Taxation matters as detailed in Consultation Paper

15.2.1 The Authority noted that Minimum Alternate Tax (MAT) was the minimum tax outflow that the company had to make, on the book profits. The Authority also noted that MAT paid could be carried forward and be adjusted against the normal tax payable by the entity on the tax computed on profits from the year after the tax holiday period.

15.2.2 The Authority noted that the Authority's guidelines detailed that tax payments would be considered for ARR computations. Accordingly, the Authority considered the tax outflow projected based on the Aeronautical P&L as the tax cost to be added to the ARR.

15.2.3 Tax numbers projected by BIAL was impacted by other changes in the ARR and projected revenues. Hence, the Authority had recomputed the tax considering the aforementioned paras and other changes to ARR as detailed in the relevant section of this Consultation Paper.

15.2.4 The Recomputed Tax estimate was as follows:

Table 67: Tax estimate considered by the Authority in Consultation Paper 05/ 2018-19 (Rs. Crore)

Tax Outflow	2017	2018	2019	2020	2021
IT Reimbursement	0.00	2.90	0.00	0.18	0.00

15.2.5 The Authority noted that similar to other numbers, the tax cost estimate also had to be trued up based on actuals, which would be carried out by the Authority at the end of the current control period.

15.3 BIAL's comments on Authority's analysis on Taxation matters

15.3.1 BIAL has submitted as follows:

"...On tax outflow estimate (MAT) for computation of Aggregate Revenue Requirement AERA's Treatment

......

BIAL Submission: *- BIAL has noted the submission of the Authority. BIAL would like to submit that it is covered under section 80-IA income of the Income Tax Act, 1961. Accordingly, Minimum Alternate (MAT) payable on reported profits will have a matching MAT credit (asset) creation available for set off in the next 10 years as per the current applicable provisions of Income Tax Act, 1961.*

On Authority's proposal to true up the projections based on actuals, at the end of the control period, in computation of tariff for the next control period

BIAL Submission: *- BIAL submits that the taxes paid for the current control period may differ from the projections considered for the determination of tariffs on account of various factors.*

Accordingly, BIAL is in agreement with the Authority's proposal to true up the Taxation for the current control period, at the time of determination of tariff for the next control period..."

15.4 Authority's examination of Stakeholders' comments on Taxation

15.4.1 As part of updation of the actual revenues for the year 2016-17 and 2017-18, Authority noted that the Aeronautical P&L resulted in Profits for the year 2016-17 and 2017-18. The Authority decides to consider the actual MAT based on Aeronautical P&L for 2016-17 and 2017-18 as reimbursable to BIAL.

15.4.2 Based on the above, revised tax outflows are calculated by the Authority as under:

Table 68: Tax outflow computed by the Authority to be included as part of ARR (Rs. Crores)

Tax Outflow as computed by Authority	2017	2018	2019	2020	2021
IT Reimbursement	71.34	97.04	0.00	0.00	0.00

Decision No. 12. Regarding Taxation

12.a. Based on the material before it and its analysis, the Authority decides:

i. To consider tax outflow estimate (MAT) as detailed in Table 68 Para 15.4.2 above for computation of Aggregate Revenue Requirement.

ii. To true up the projections based on actuals, at the end of the control period, in computation of tariff for the next control period.

16 Working Capital Interest

16.1 BIAL's submissions on Working Capital Interest

16.1.1 BIAL had submitted the following, in case of Working Capital Interest:

"...Working capital requirement is considered and the cost of funds is estimated at 12% per annum..."

Table 69: Working Capital Requirement projected by BIAL (Rs. Crores)

Particulars (Rs. Crore)	FY 2017	FY 2018	FY 2019	FY 2020	FY 2021
Working capital Requirement	0.00	56.68	145.14	150.19	152.36
Interest on WC borrowing	0.00	5.75	17.42	18.07	18.28

16.2 Authority's analysis of Working Capital Interest detailed in Consultation Paper

16.2.1 The Authority noted that BIAL had projected Working Capital Interest at 12% from first year together with lender / engineer fee for the loans taken. The Authority also understood that as of date, while the bank sanctions the Working Capital limits, these had not been availed.

16.2.2 The Authority proposed to compute WC Interest on the funds estimated as per Financial Model at 9.5% from 2018-19 onwards. Accordingly, the recomputed fee/ Working Capital was as detailed below:

Table 70:Working Capital Interest/ Lender Fee estimate considered by the Authority in Consultation Paper 05/ 2018-19 (Rs. Crores)

Working Capital/ Lender Fee	2016-17	2017-18	2018-19	2019-20	2020-21
Lender / Engineer Fee	21.54	2.73	2.73	2.73	2.73
WC Interest	0.00	0.00	10.59	10.86	10.25
Total	21.54	2.73	13.32	13.59	12.98

16.2.3 The Authority noted that the actual Working Capital facility availed and the Interest rates could vary considering the cash flow of the entity. The Authority hence proposed to true up the actual borrowing and Interest at the end of current control period, based on actuals.

16.3 Stakeholders' comments on Working Capital Interest

16.3.1 IATA has stated the following:

"...IATA commends AERA for recognizing the need to adjust *the WC Interest from the current 12% to 9.5% from 2018-19 onwards..."*

16.4 BIAL's response to Stakeholders' comments on Working Capital Interest

16.4.1 On comments from IATA, BIAL has submitted as follows:

"...BIAL observes that while IATA has commended on the Authority's proposal to revise the working capital interest from the 12% p.a. submitted by BIAL to 9.5% p.a. starting from FY 2018-19, it has not provided any justification for the same.

BIAL does not support IATA's submission and would like to reinforce its submissions made in its response to the CP. In its response, BIAL has highlighted that while typically, interest rates on short term financing (worklng capital) is higher than on long-term financing, the Authority's proposed interest rate for the former is even lower than that allowed in case of the latter..."

16.5 BIAL's comments on Authority's analysis on Working Capital Interest

16.5.1 As per the CP, the Authority has stated as below with respect to the interest on working capital:

On Authority's proposal for treatment of Interest on Working Capital AERA's Treatment

....

BIAL's Response: *BIAL acknowledges the Authority's statement that these working capital limits have not been availed. The interest rate proposed by the Authority on working capital loans i.e. 9.5% p.a. We would like to highlight that the interest rate considered by Authority is lower than the interest rate allowed on long-term finance viz. 10.25% p.a. As the Authority would be aware, interests on short term financing (working capital) are always higher than long-term loans. Considering this, we request the Authority to consider working capital interest rate at more than 10.25% p.a. and accept BIAL's estimate of ~12% p.a.*

BIAL Submission*: - BIAL requests the Authority to consider 12% p.a. as the cost of working capital loans for the remaining years of the Second Control Period.*

On Authority's proposal to true up the projections based on actuals, at the end of the control period, in computation of tariff for the next control period

BIAL's Submission: *- BIAL submits that the working capital requirement / interest for the current control period may differ from the projections considered for the determination of tariffs on account of factors such as changes in passenger traffic, O&M expenditure, non-aeronautical revenue etc.*

Accordingly, BIAL is in agreement with the Authority's proposal to true up the working capital interest for the current control period, at the time of determination of tariff for the next control period...."

16.6 Authority's examination of Stakeholders' comments on Working Capital Interest

16.6.1 Authority has carefully evaluated comment made by BIAL. Authority notes that the working capital loan draw down and Interest rate cannot be estimated currently and would need to be based on actuals. Accordingly, the Authority decides to consider working capital based on its estimated in the Consultation Paper and true up the same based on actuals.

16.6.2 Based on the analysis of the above, revised working capital/lender fee is calculated by the Authority as under:

Table 71: Recomputed WC Interest / Fee considered by the Authority for computation of ARR (Rs. Crores)

Working Capital/ Lender Fee	2016-17	2017-18	2018-19	2019-20	2020-21
Lender / Engineer Fee	21.54	2.73	2.73	2.73	2.73
WC Interest	0.00	0.00	10.75	11.03	10.37
Total	**21.54**	**2.73**	**13.48**	**13.76**	**13.10**

Decision No. 13. Regarding Working Capital Interest

13.a. Based on the material before it and its analysis, the Authority decides:

i. To consider Working Capital Interest / Fee as detailed in Table 71 Para 16.6.2 above for computation of Aggregate Revenue Requirement.

ii. To true up the projections based on actuals, at the end of the control period, in computation of tariff for the next control period.

17 Wholesale Price Index

17.1 BIAL submission on WPI

17.1.1 BIAL has submitted as follows:

> *"...The WPI and CPI projections are based on a review of two key government sources - namely the Reserve Bank of India (RBI) and the Office of Economic Advisor, Ministry of Commerce and Industry.*
>
> ....
>
> *Using the above data, the Geometric Mean of the WPI over the last nine years, is calculated as 5.78%.*

17.2 Authority's analysis on WPI/ Inflation detailed in Consultation Paper

17.2.1 The Authority had reviewed BIAL's submission on CPI and WPI. The Authority noted that CPI has been used by BIAL in forecasting increases in cost/ revenue etc. where relevant and WPI was used in forecasting target revenues etc. for Yield computations.

17.2.2 The Authority proposed to consider inflation forecasts as per the quarterly survey conducted by the RBI in January 2017. As per the "Results of the Survey of Professional Forecasters on Macroeconomic Indicators – Round 44", the median percentage change in WPI over the succeeding five years is projected at 3.9% p.a.

17.3 BIAL submission of Authority's analysis of WPI

17.3.1 BIAL had submitted as follows:

> *"...BIAL submits that actual WPI may differ from the projections considered for the determination of tariffs. Further, BIAL as part of MYTP submissions requested for true up of WPI as well, while determining actual performance by the end of tariff period. Accordingly, BIAL requests the Authority to consider the truing up of WPI to actuals at the time of determination of tariff for the next control period..."*

17.4 Authority's analysis of Stakeholder comments on WPI

17.4.1 The Authority had reviewed the comment submitted by BIAL.

17.4.2 The Authority had also noted that as per RBI issued results of the "Results of the Survey of Professional Forecasters on Macroeconomic Indicators – Round 45", the mean WPI inflation is forecasted to be 4.2% for the next 5 years. The Authority has proposed to revised WPI for the 2nd control period to 4.2% and true up the same based on actuals.

Decision No. 14. Regarding Wholesale Price Index

14.a. Based on the material before it and its analysis, the Authority decides:

i. **To consider Wholesale Price Index at 4.2% for all the years of the 2nd Control Period based on the results of the latest survey by RBI.**

ii. **To true up the projections based on actuals, at the end of the control period, in computation of tariff for the next control period.**

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AERA

18 Quality of Service

18.1 BIAL's submissions on Quality of Service

18.1.1 BIAL had not made any submissions related to Quality of Service as part of its MYTP submission dated 25.03.2016 and its revised submission in April 2017.

18.2 Authority's analysis of Quality of Service detailed in Consultation paper

18.2.1 Authority had, in MYTO-CP1 noted the provisions of the Concession Agreement with respect to performance standards (particularly Article 9 and Schedule 9 Part 2 thereof). The Authority noted that these standards were based on IATA Global Airport Monitor service standards. The provisions of the Concession Agreement also indicated the consequences of not coming upto the prescribed level of performance standards. Therefore, the Authority felt that the scheme of performance standards as indicated in the Concession Agreement would be reasonable for this purpose.

18.2.2 Hence the Authority decided as follows in MYTO-CP1:

"...The Authority decides that BIAL shall ensure that service quality conforms to the performance standards as indicated in the Concession Agreement..."

18.2.3 Concession Agreement of BIAL stated as follows:

"...Monitoring of Performance Standards

9.2.1 Throughout the term of this Agreement the Airport's performance shall be monitored by passenger surveys in accordance with this Article 9. The criteria used to measure the Airport's performance shall be the IATA Global Airport Monitor service standards set out in Schedule 9, Part 2 or such criteria as may be mutually agreed upon from time to time (the Standards).

9.2.2 BIAL shall participate in IATA surveys and shall ensure that a survey is conducted each year in accordance with IATA's requirements to determine the Airport's performance. The first such survey shall be conducted during the third (3rd) year after Airport Opening.

9.2.3 If three (3) consecutive surveys show that the Airport is consistently rated in respect of the service standards under BIAL's direct control, as lower than IATA rating of three and a half (3.5) (in the current IATA scale of 1 to 5), BIAL will produce an action plan in order to improve the Airport's performance which must be implemented within one (1) year..."

18.2.4 The Authority understood that BIAL had got an ASQ rating of 4.85 in the year 2016 and 4.83 in the year 2017. Hence, the Authority was of the view that BIAL was meeting the required performance standards and there was no need for any penal provisions to be applied on BIAL.

18.2.5 Similarly, for the 2nd Control period, the Authority proposed that BIAL should ensure that service quality at Kempegowda International Airport, Bengaluru conformed to the performance standards as indicated in the Concession Agreement.

18.3 Stakeholders' comments on Quality of Service

18.3.1 IATA has stated the following:

"...IATA's best practice approach to quality of service is summarised in our "Airport Service Level Agreement – Best Practice" paper, and recommends quantitative, objective measures rather than qualitative, perception-based measures referenced in the Concession Agreement.

This ensures that actual performance of the airport is measured, and the quality of service agreement or Airport SLA provides the Airport with a clear understanding of the levels of service and outcomes required in order to meet Users (typically the Airline Community) expectations, in return for the airport charges they pay.

Levels of Service should be jointly agreed between Users and Airports, while the establishment of a best practice SLA between an Airport and its Users should be based on an approach of openness, transparency and collaboration, to promote a culture of continuous improvement.

Unfortunately, these best practice elements have not been included, and a total lack of transparency regarding objective measurement is a major concern. These issues need to be resolved to ensure the airport is held to account and users need delivered..."

18.3.2 BPAC has stated the following:

"...We request AERA to appoint a Consumer Ombudsman to improve the quality of service in KIA and provide a platform for consumer grievances. AERA may also direct KIAL to publish quarterly data on consumer grievances. This will enhance the transparency in the operations and quality of service provided by KIAL.

In the best interest of citizens' of Bengaluru who use the airport services, we request AERA to guide KIAL to nominate an eminent well-respected citizen of Bengaluru as an independent member to the Board of KIAL. Inducting such an eminent person on to the Board will help in ensuring service delivery at the most optimal cost which is in the best interest of the air commuters and the development of the city..."

18.3.3 Consumer Care Society (CCS) has stated the following:

"...There must be a number of parameters to assess QoS. No such parameters nor any numbers associated with the parameters have been provided. AERAI have concluded that no penalty needs to be imposed on BIAL since they comply with their concession agreement (CA) and AERAI's analysis appears to have been confined to determine whether penalty is to

be imposed or not. Perhaps it may not be wrong to say that in the minds of the public and customers QoS determines the reputation of a service entity such as an airport even more than cost. It is not also not clear whether during the years that BIAL has been in operation, BIAL's QoS has shown an upwards trajectory or not and whether further improvement is possible or whether BIAL has reached the pinnacle. Here again how does the QoS of BIAL compare with other airports nationally and internationally?...."

18.4 BIAL's response to Stakeholders' comments on Quality of Service

18.4.1 On comments from IATA, BIAL has submitted as follows:

"...BIAL notes the submissions made by IATA highlighting the lack of transparent and objective measurement of QoS at the KIAB. It recommends the need for setting the levels of service jointly by both the airport operator and the airport users, apart from pointing towards the need to move away from qualitative, perception-based measures as provided in the CA to quantitative, objective measures to estimate QoS at the airport.

ASQ Surveys are the Airport Council International's ('ACI') comprehensive initiative to improve the quality of service experienced by passengers with participation of over 321 airports in more than 50 countries. These surveys seek to measure passengers' overall satisfaction with an airport by ranking its performance against other airports in terms of various aspects of an airport's services. The survey is circulated to departing passengers and asks them to complete it based on their experience at the airport.

The CA mandates the maintenance of a minimum rating of 3.5 on a scale of 5. BIAL has been consistently scoring over 4.5, ensuring the quality standards/ service levels are maintained. Further, the Authority considered that BIAL shall ensure that service quality at KIAB conforms to the performance standards as indicated in the CA over the Second Control Period. Lastly, KIAB has been ranked second in the list of 2017 ASQ Award winners for "Best Airport by Size: 15-25 Million Passengers" with Denpasar, Haikou and Sanya Airports tied in first place. Also, Section 13(1) (d) envisages a limited role of monitoring of performance standards that have already been set. The CA has set/prescribed quality standards, which BIAL is adhering to. In that light, IATA's comments travel beyond the jurisdiction of the authority..."

18.4.2 On comments from B.PAC, BIAL has submitted as follows:

"...BIAL notes B.PAC's request to the Authority to appoint an independent Consumer Ombudsman, which will help in enhancing transparency in operations and improving the quality of service provided at KIAB, besides providing a platform for consumer grievances redressal.

BIAL submits that the AERA Act does not have provisions for appointment of independent Consumer Ombudsman. Further, the monitoring of performance and customer satisfaction is undertaken by BIAL as provided by the CA and the same is being shared with the Authority.

Further, BIAL observes B.PAC's suggestion to the Authority for directing BIAL to nominate an eminent citizen of Bengaluru as an independent member to the Board. BIAL submits that the Appointment of Directors is governed by the Companies Act 2013 and the same has been duly complied with by BIAL.

Further to the above response, BIAL would like to submit the following responses to the comments made by B.PAC in its letter dated 18.06.2018.

Proposal 1: B.PAC stated that BIAL has not made available the accounts for FY 2017-18 on their website and requested the Authority to direct BIAL to make the same available.

The annual report containing the audited financials of BIAL will be uploaded on the company's website along with the notice calling for Annual General meeting of the company. This is expected during the last week of August / early September this year...."

18.4.3 On comments from CCS, BIAL has submitted as follows:

"...CCS has mentioned that while there must be a number of parameters to assess QoS, no numbers associated with any such parameters have been provided by the Authority (while analysing the QoS of KIAB). Accordingly, CCS has commented that it is not clear whether in the years BIAL has been in operation, its QoS has shown an upward trajectory, whether any further improvement is possible or whether it has reached the pinnacle. CCS has also raised questions on how the QoS of BIAL compares with other airports nationally and internationally.

BIAL would like to highlight that its CA mandates maintaining a minimum Airport Service Quality (ASQ) score of 3.5 on a scale of 5. BIAL has been consistently performing over 4.5 and above, ensuring that the quality standards/ service levels at KIAB are maintained. Further, the Authority has proposed in the CP that BIAL shall ensure that service quality at KIAB conforms to the performance standards as indicated in the CA over the Second Control Period. Finally, on comparative performance with other airports, BIAL would like to submit that KIAB has been ranked second in the list of 2017 ASQ Award winners for "Best Airport by Size: 15-25 Million Passengers" with Denpasar, Haikou and Sanya Airports tied in first place. Therefore, the airport is continuously wining accolades for its quality of performance and customer satisfaction..."

18.5 BIAL's comments on Authority's analysis on Quality of Service

18.5.1 BIAL has submitted as follows:

"...On Authority's proposal that BIAL shall ensure that service quality at Kempegowda International Airport conforms to the performance standards as indicated in the CA over the 2nd Control Period

AERA's Treatment

As per the CP, the Authority has stated as below with respect to service quality:

"16.2.4 The Authority understands that BIAL has got an ASQ rating of 4.85 in the year 2016 and 4.83 In the year 2017. Hence, the Authority is of the view that BIAL is meeting the required performance standards and there is no need for any penal provisions to be applled on BIAL.

16.2.5 Similarly, for the 2nd Control period, the Authority proposes that BIAL shall ensure that service quality at Kempegowda International Airport, Bengaluru conforms to the performance standards as indicated in the Concession Agreement."

BIAL Submission: *- As Authority has noted, BIAL continues to comply with the requirements of the CA and over the first two years of the Control Period has exceeded the ASQ requirement (2016 – 4.85, 2017 – 4.83). In first quarter of 2018, ASQ score of KIA was 4.89. It can be seen that BIAL continues to meet the minimum requirements and is undertaking all necessary steps to ensure that it continues to meet the performance standards including making necessary capital investments, implementing digital initiatives including Digi Yatra etc.*

The inability to take up capital investment due to cash flow issues may hamper operations and ability to handle such high growth in traffic, which may impact the service quality levels..."

18.6 Authority's examination of Stakeholders' comments on Quality of Service

18.6.1 The Authority has carefully evaluated the comments from Stakeholders and BIAL on Quality of Service.

18.6.2 The Authority notes that BIAL is constructing a new Runway and the Authority expects that the same will be put to use from the time it is commissioned.

18.6.3 The Authority is in the process of establishing methodology for evaluating Quality of Service and in the first phase will collect the data on defined performance parameters from the Airports and after due analysis, will take the process further.

18.6.4 The Authority notes that the existing resources have been fully stretched at Bengaluru Airport and expect BIAL to take all necessary steps to ensure that service quality level conforms to the levels indicated in the Concession Agreement.

Decision No. 15. Regarding Quality of Service

15.a. Based on material before it and its analysis, the Authority decides:

i. **That BIAL shall ensure that service quality at Kempegowda International Airport conforms to the performance standards as indicated in the Concession Agreement over the 2nd Control Period.**

ii. **Not to levy any penalties / rebates against BIAL for the 1st Control Period as BIAL has managed to ensure prescribed levels of service quality during the review period.**

19 Aggregate Revenue Requirement (ARR)

19.1 BIAL's submission on Aggregate Revenue Requirement (ARR)

19.1.1 BIAL had submitted its total Aggregate Revenue Requirement for the second control period, under Shared Revenue Till as follows, based on the submissions on various building blocks discussed in earlier sections.

Table 72: Aggregate Revenue Requirement as per BIAL under Hybrid Till (Rs. Crores)

ARR as computed by BIAL	FY 2017	FY 2018	FY 2019	FY 2020	FY 2021	Total
Average RAB	2275.02	2928.03	3603.21	4837.95	9000.51	
FRoR	17.10%	17.10%	17.10%	17.10%	17.10%	
Return on RAB	389.01	500.67	616.12	827.26	1539.03	3872.10
Depreciation	213.15	233.80	271.92	335.26	465.31	1519.44
Operating Expenditure incl. Concession Fee	350.25	429.29	512.23	587.81	766.39	2645.98
Working Capital Interest/ Fee	21.54	8.48	20.15	20.80	21.01	91.98
Tax	205.85	241.47	256.32	300.46	295.29	1299.40
Less: Non-Aero Revenues	-158.75	-166.48	-174.55	-179.86	-194.78	-874.42
Aggregate Revenue Requirement	1021.05	1247.24	1502.19	1891.73	2892.26	8554.47
Add: Shortfall recovery for Pre-Control and First Control period						2121.02
Total Requirement as per BIAL						**10675.49**

19.1.2 Accordingly, the Yield computed per passenger (YPP) was 582.20 at the beginning of the Control period.

19.2 Authority's analysis of Aggregate Revenue Requirement detailed in Consultation Paper

19.2.1 Authority's analysis on individual building blocks of ARR were detailed in the individual sections of this Consultation Paper.

19.2.2 Based on the individual analysis detailed above, the recomputed ARR for the second control period under Hybrid Till was as given below.

Table 73: Recomputed Aggregate Revenue Requirement under Hybrid Till detailed in Consultation Paper 05/ 2018-19 (Rs. Crores)

ARR as computed by Authority	FY 2017	FY 2018	FY 2019	FY 2020	FY 2021	Total
Average RAB	2236.67	2660.45	3061.86	4054.27	5430.66	
FRoR	11.33%	11.33%	11.33%	11.33%	11.33%	
Return on RAB	253.45	301.48	346.96	459.42	615.39	1976.71

ARR as computed by Authority	FY 2017	FY 2018	FY 2019	FY 2020	FY 2021	Total
Depreciation	188.44	215.31	417.76	323.59	358.61	1503.71
Operating Expenditure	308.02	351.72	406.60	450.47	523.30	2040.11
Working Capital Interest	21.54	2.73	13.32	13.59	12.98	64.15
Tax	0.00	2.90	0.00	0.18	0.00	3.08
Less: Non-Aero Revenues	-102.30	-107.34	-118.54	-129.56	-142.54	-600.29
Aggregate Revenue Requirement	669.15	766.79	1066.10	1117.69	1367.74	4987.47
Add: Shortfall / (Over) recovery for Pre-Control and First Control period						-618.34
Total ARR recalculated by Authority						**4369.14**

19.2.3 The recomputed YPP at the beginning of the control period was 219.38.

19.2.4 Analysis of key differences from the submission made by BIAL to the computation done by the Authority was detailed in the Consultation Paper.

19.2.5 The Authority noted that two years in the first control period was over and the tariff that would be determined would be applicable for the balance 3 years in the current control period. The Authority proposed to consider 1st July 2018 as date of implementation of new tariff. (This date is changed in the final Order)

19.2.6 The Authority proposed to consider and approve tariff for the balance years in the control period along with the Multi Year Tariff Order for Aggregate Revenue Requirement, together and not have an individual assessment year wise.

19.2.7 The Authority noted that BIAL had not submitted the Annual Tariff Plan for the years in the second control period. BIAL had stated as follows:

"....Annual Tariff Plan

Clause 3.4 of the Direction No. 5/2010-11 states that: 'After issuance of the Multi Year Tariff Order, the concerned Airport Operator(s) shall submit to the Authority its Annual Tariff Proposal(s): Provided that an Annual Tariff Proposal shall be submitted at least 105 days prior to the start of the Tariff Year.' BIAL requests the Authority that the ATP submission be allowed to be done after the Authority issues the MYT Order for Control Period 2.

Variable Tariff Plan

In the Control Period 1, BIAL had proposed the Variable Tariff Plan (VTP) which was accepted by the Authority and the Tariff Card for the VTP was approved by the Authority. However, for Control Period 2, BIAL proposes that it should be allowed the option of filing the VTP along with the Annual Tariff Plan, after the Authority has issued the MYT Order for Control Period 2..."

19.2.8 The Authority also noted that, it would be necessary to have the individual year wise tariff card laying down the different Aeronautical charges and the workings for the Aeronautical Revenues, in order to have a constructive stakeholder discussion and hence BIAL was expected to submit the detailed Annual Tariff proposals in line with the ARR and Yield arrived at by the Authority within 7 days of issue of the Consultation Paper.

19.3 Stakeholders' comments on Authority's analysis of Aggregate Revenue Requirement (ARR)

19.3.1 AOC has stated the following:

"...We welcome proposed reduction in landing and parking fees..."

"...To ensure that capacity constraints at KIA do not adversely affect the growth of air traffic and subsequently the growth plans of airlines operating out of the airport, we would request AERA to support the airport's expansion plans

We also request that tariffs be constant across control periods without the need to levy an inflated figure in the third control period, the proposed reduction in landing and parking fees is also very much appreciated by all member airlines..."

19.3.2 IOSL has stated the following:

"...Indian Oil Sky tanking is providing Fuel Farm and ITP services at Bangalore International Airport (BIAL).

AERA has projected the traffic growth of 38 million by March 2021 in the Consultation Paper. This is much more that the existing terminal capacity and there is an urgent need for airside and terminal expansion.

Currently, the parking spaces for the Airlines are not sufficient to meet their increasing demand. Further, to take care of the increase in passenger traffic, the requisite infrastructure such as increase in apron area, Hydrant lines, runways etc. needs to be expanded urgently. Without the expansion of infrastructure, the Airport would slowly reach to a stagnation point which would lead to complete chaos at the airport and also the Airport would miss the ensuing growth opportunities.

Indian Oil Sky tanking is incurring huge investments relying upon the promising growth projections of air traffic at the Bangalore Airport. These measures and investments, however, will only yield results if the Airport is able to achieve the projected traffic. The investments in airport infrastructure by BIAL is critical for the growth of the entire value chain in the region and the service providers investments are directly dependent on the expansion by BIAL and resultant growth in Air Traffic.

As presented in the Stakeholders' presentation by BIAL the total projected Capital expenditure by BIAL is Rs. 10,556 Crs and cash shortfall of Rs. 1489 Crs. You would appreciate that no infrastructure expenditure is possible without Funding & any negative cash flows would have adverse impact on IOSL as well since IOSL's projects are in line with BIAL expansion plans.

We would thus request AERA to consider the above submission so as to ensure that sufficient cash flows are available to BIAL for the timely expansion of the airport's capacities through a cash flow support by considering BIAL's submissions on revenue equalization across regulatory periods. Further the possible impact of the investments on the next control period also needs to be taken into consideration...

... As a service provider at Bangalore Airport, we support BIAL's submission for continuing the same tariff to meet their expansion plans, in the overall interest of the airport and dependent service providers..."

19.3.3 BSSPL has stated the following:

"...We would make a humble submission to AERA that BIAL's capacity is nearing saturation and there is urgent capacity expansion requirement and AERA should consider allowing BIAL to continue the existing tariff as a cash flow mechanism to help fund the expansion..."

19.3.4 APAO has commented as follows:

"...It is understood that as per the Authority's proposals, BIAL is likely to end up with a negative cash flow by the end of the second control period. With 92% of the internal accrual generation of BIAL having already been reinvested for improving the airport capacity to handle the increasing demand of passengers and cargo growth, and in the absence of any further equity infusion, BIAL may face severe constraints with respect to funding its proposed airport expansion project during the second control period. Given the escalating traffic at Bangalore Airport it is pertinent to note that any deferral of the airport's expansion plans to the third control period would choke the Airport due to capacity constraints and lead to deterioration in the airport's service levels.

To highlight the sanctity of the Concession Agreements for tariff determination of PPP airports. We would like to submit that in 2004-05 when the Concession Agreements of BIAL and GHIAL were signed, India's aviation industry lacked a defined regulator mechanism to determine aeronautical charges. In the absence of a defined framework, Concession Agreements alone with discussions with the Concessioning Authority were the sole premise for all financial analysis and corresponding investments decisions taken by bidders. The Authority was subsequently established in 2009, after the projects were awarded for development and operation of these airports.

In this context we would request the Authority to take into consideration an understanding of the importance attached to Concession Agreements while determining the tariffs for such airports. From an industry perspective the Authority's positions in the above consultation paper, which are incongruous with the Concession Agreements takes the sector by surprise and would undermine investor confidence in the privatization initiatives of the Government going forward..."

19.3.5 BAOA has stated as follows:

"...As regard FTC, airport operators do not provide any facility directly to oil companies other than merely allowing access into airport. The land usage charges are separately paid by the oil companies.

FTC is just a fee for the right to sell or distribute aviation fuel and lubricant at airport. Before 2000, AAI used to charge only land rentals from oil companies. In 2001, a very small amount of Rs. 50/ KL was levied. Since this has not been regulated in the past, and being considered non-aeronautical services earlier, the charges got escalated as per mutually negotiated agreements between airport operators & oil companies. Here the airport operators exercise monopoly position and oil companies have no option but to pay.

It is the time AERA regulates FTC and standardise it between Rs. 100 to 150 per KL throughout India rather than allowing variable charges (Kolkata Rs. 1478.94 per KL, Bengaluru Rs. 1067.00 per KL, Delhi Rs. 688.00 per KL and Pune Rs. 112.1 per KL).

The oil companies should be advised, through Min of PNG, not to treat FTC as a pass-through charge and bill it to aircraft operators. Airlines do not enjoy the same monopoly position as the airport operator and to some extent even the oil companies..."

19.3.6 Sanjeev V Dyamannavar has submitted as follows:

"...KIAL has not furnished the Aeronautical revenue in the Consultation paper. Request AERA to provide the same...."

19.3.7 BPAC has stated the following

"...KIAL's Profitability & ROE is abnormal: - Backed by very healthy growth in passenger traffic and increasing Non-Aeronautical revenues, KIAL has been extremely profitable since 2014. Their Revenue from Operations grew 2X from 2014 to 2017 while the costs only increased by 1.46X. ... KIAL has grossed 45% Profit After Tax (PAT) Margins for the current year and an incredible 49% ROE for FY 16-17. Clearly, the economics of the Concession Agreement have by themselves been appealing for KIAL. Additionally, the undetermined returns from related land transactions are an intangible, which can provide KIAL significant upside. AERA not taking this upside into consideration further allows for KIAL to go unaccounted for its abnormal profits.

Abnormal profitability has allowed GVK to divest at a very high valuation

BPAC has outlined the events leading up to GVK's recent divestment from KIAL. The most recent divestment which allowed Fairfax to get 6 board members has valued KIAL at INR 12,900 Cr, a sign of its extraordinary lucrativeness for the incoming investor..."

"...In the Consultation Paper, KIAL has furnished details of only the Non-Aeronautical revenue for which AERA has provided recommendations. We request AERA to direct KIAL to

submit the Aeronautical revenue in a similar manner, which has components of UDF and PSF among others for the current control period.

The objective of collecting UDF is to provide passenger amenities, services and facilities and used for the development, management, maintenance, operation and expansion of the facilities at the Airport. Therefore, AERA should direct KIAL to publish the annual utilization report of the UDF

Our request to AERA is that, the formula to calculate UDF should be made transparent..."

"...Abnormal profitability is UDF-subsidized

AERA has not trued up UDF revenue considering the traffic volume based on actual growth during the 2011-2016 control period while determining aeronautical tariffs for the 2016-2021 control period. AERA has allowed KIAL to keep charging passengers UDF at the same rate as was determined in the last order, without considering:

- passenger traffic has swelled beyond projections, delivering bountiful returns to KIAL

- No increase in capacity and no projected increase until 2021, forcing passengers to cramp up in the airport

- In not abiding by its own Order, AERA has failed in its duty of tariff regulation. Based on past projections and actuals, BPAC has summarised that an unprojected UDF-driven income of INR 379.79 Cr has not been trued up since 2013-14...

Through the above analysis, BPAC has determined that KIAL has not considered the "User Development" aspect of the User Development Fee in letter and spirit.

• Passengers are already suffocated by the capacity overutilization at KIA and will have no option but to be further inconvenienced during the following years.

• UDF has subsidised KIAL at the cost of users, created abnormal monopoly profits.

• Failing to reduce KIAL's abnormal profits, AERA has allowed the previous investor to exit at a large premium.

We urge AERA to true up the revenue earned from the deviation in passenger traffic to the tune of INR 379.79 Cr.

AERA should strictly audit, monitor and report KIAL's utilization of funds received through UDF and other Aeronautical charges for the first and the ongoing control period.

We urge AERA to summarily nullify the UDF from 1st May 2018 as passengers should not be forced to pay a development fee when the Airport is earning huge monopoly profit and user fees are beyond projection

We urge AERA to strictly audit, monitor, and report KIAL's utilisation of funds received through UDF and disallow expenditures/investments that increase non- aero revenue.

We urge AERA to follow the due public consultation process while determining tariffs and AERA should release the public consultation paper immediately and follow the set process in determining tariffs in a time-bound manner

KIAL has not made available the accounts for the FY 2017-18 in their website. We would request AERA to direct KIAL to make available the audited/provisional accounts for the FY 2017-18.

We urge AERA to strictly audit, monitor, and report KIAL's utilization of funds received through UDF and other non – aero revenue during the second control period.

In the interest of full transparency, we request AERA to direct KIAL to put on public domain all contracts with related parties since inception and also conduct an independent verification of the arm's length nature of these transactions. In case any contracts are found to be not at arms' length, action needs to be initiated by AERA to recover the excess amount so charged. In any case there should be full and public disclosure of all related party transactions and arm's length nature of the same on an ongoing basis every quarter.

UDF charged in the first control period, further extended by AERA for two years and part of the third year of the second control period at these unreasonably high rates. We are further surprised to see that instead of completely eliminating UDF, KIAL has further proposed UDF charges of INR 79 for domestic passengers and INR 319 for international passengers for remaining part of the third year. This sharply increases during the last two years of the second control period and defies all financial logic.

We request AERA to disallow the collection of UDF through the second control period for the following reasons:

1. Because of delay In hearing by AERA, excess UDF has been charged in the first two years of the second control period which has led to significant profit margin for KIAL. Hence the question of UDF collection in the second control period does not arise.

2. The actual air traffic has far exceeded projections and the airport is making substantive profit.

3. The traffic projections for the second control period per AERA's own order should have been based on a survey conducted just before the beginning of the second control period in order to reflect the most current market situation and not based on a 2010 study.

4. KIAL has been given free land by the GOK for the development of the aero and non-aero, airport/non-airport activities. Sadly, the non-aero / non-airport activities have not even commenced leading to a significant lock up of precious land value in a prime location and loss of revenue to the exchequer.

a) Bengaluru is the fastest growing city in the world and the state of Karnataka attracts the second highest FDI in the country (US $6.4 billion). Further, Bengaluru Urban has the highest per capita income in the state of INR 3.2 lakh per annum (The Economic Times, 2018). The *city which earlier was known as the 'Silicon Valley' has now become the 'Startup capital'. Our research suggests that Bengaluru airport has seen the CAGR of 17.1 per cent for the years 2013-2018, higher than Delhi, Mumbai, Kolkata and Chennai airports. Bengaluru is a world class city with a significant number of global multinational and Indian corporations having their Head Offices/ R&D Centers/ Offshore Development centers based here. This is ample testimony to the demand for aero and non-aero service and it is evident that KIAL has the capacity to attract investments to expand the services to the passengers to world class levels.*

b) Devanahalli region where KIAL is situated, has already attracted real estate investment in residential, educational and commercial space. Over 14 major residential complexes have already been constructed and KIADB aerospace SEZ located at proximity to the airport of area 980 acre has also been developed. We draw your attention to the 4008 acres of land which has been allotted to KIAL from GOK under the SSA. A significant portion of this 4008-acre land parcel is lying unutilized, while the areas surrounding the airport have attracted both government and private investments and have become operational. We are surprised that KIAL has not taken any steps to monetize the land despite having the potential to do so. This has led to severe loss of revenue to the exchequer and is placing huge burden on the passengers via higher UDF and PSF for meeting the development needs of KIAL.

c) .... we have highlighted the areas adjoining airport. While the land parcel under Bangalore Airport Area Planning Authority (BIAAPA) and KIADB have been developed, the unutilized land parcel of the 4008 acres of land under KIAL has the scope to attract investments and could be developed as a mixed-use land, which would enhance the available services and increase revenue to KIAL.

d) Non-utilization of land given free by the government is leading to huge revenue loss and increased UDF charges. We urge the AERA to direct KIAL to immediately draw up a Master Plan indicating phase wise development of aero and non-aero activities, along with the timeline and the cost for the entire land parcel of 4008 acres clearly demarcating aero and non-aero portions currently developed and yet to be developed. The same should be made available on their website and the information should be disseminated widely via English and vernacular dailies inviting citizen comments. KIAL should further hold a public consultation with citizens.

e) Further, the metro connectivity to the airport which has been estimated at an additional cost of approximately 1000 cr will only end up increasing UDF and PSF fees. The UDF collected from the current users of the airport cannot be utilized for future metro connectivity. Our request to AERA is that, the positive cash flow generated from higher UDF collections needs to set aside as a separate fund by KIAL and utilized for additional scope, such as, cost of metro connectivity and Eastern Tunnel works etc. Further, we request that once the metro line is operational, all passengers travelling to and from the airport metro *line should be charged a premium service charge by way of higher ticket fees as is prevalent in other parts of world. KIAL should enter into a revenue share model with BMRCL and fees from revenue share should be used to recover the incremental cost of metro line that KIAL is incurring.*

f) We therefore would like to highlight that any additional cost over and above the project cost and scope of KIAL should not be considered while calculating the tariffs such as UDF and PSF. AERA should look into the costs of the projects which are in the scope of GoK and such costs should be recovered separately from the government without burdening the users of the airport.

g) We would also like to bring to AERA's attention that Karnataka Cabinet took decision on June 22, 2018 to put off the loan repayment of interest-free loan of INR 333.50 cr which was given by GoK to the BIAL as part of SSA. The repayment of this loan was supposed to start this year, and the same has been put off by another 10 years. We request AERA to take cognizance of this while truing up for the current fiscal year and for subsequent periods totaling to 10 years while fixing the tariff for second and third control periods..."

19.3.8 CELEBI has stated the following

"...BIAL has witnessed double digit growth in the passenger traffic and we are fairly confident about the fact that this growth will sustain for near to medium term future, BIAL is currently handling a traffic volume in excess of its capacity based on the authority's projection itself, BIAL would need to handle ~38 MPPA by FY 2020-21; which would require substantial investment in the capacity both on the airside as well as terminal side. Therefore, BIAL's investment in airport infrastructure is critical for growth of the entire aviation ecosystem in the region.

We would like to request AERA to ensure that during the second period, the tariffs are determined in a manner ensuring that this project is financially viable to this will ensure that all the capacity expansion initiatives taken at the airport are completed within the stipulated timeline and will allow us and other airport service providers operating at airport to go ahead with the planned investments without having any ambiguity towards the future airport outlook..."

19.3.9 CCS has stated the following

"...CCS would have been able to appreciate the submission made by BIAL and the very comprehensive analysis made by AERAI better if there had been comparable data and industry benchmarks provided on other national and international airports. AERA appears to have confined itself to analysing the submission made by BIAL.

Other than landing, parking, housing, PSF an UDF, for all other facilities, BIAL is free to determine charges to be imposed in respect of facilities and services provided at the Airport *or on site. However, it is requested that the BIAL exercises reasonableness in determining tariff on other aspects based on the interest of the passengers.*

Proposal No 16 on Aggregate Revenue Requirement (ARR): The ARR as asked for by BIAL is Rs Cr 10675 and the corresponding per passenger yield is mentioned as Rs 582. As against this the analysis of AERAI shows that the ARR ought to be Rs Cr 4369 and the corresponding per passenger Rs 219. Two points need to be observed. The difference between the two figures is so large that AERAI needs to consider reprimanding BIAL for making such a frivolous proposal – even though it is customary for any regulated authority to pitch high. The other point is yield per passenger. Surely this is a figure that can be compared across airports. It would have been useful if AERAI had provided some data. We presume that BIAL is entitled to recover an amount equal to the yield per passenger so that they can earn their approved ARR. Noting that there are different classes of passengers and it is not possible to recover Rs 219 from each and every passenger it is not clear how this recovery will be made and whether AERAI will issue appropriate orders separately..."

19.3.10 FAIRFAX has stated the following:

"...Bangalore International Airport Limited (BIAL) is Fairfax's largest investment in India. This reflects our confidence in India and in particular the growing Indian Civil Aviation sector, of which airport are an important constituent.

The tremendous growth in air travel has prioritized the need for capacity addition and expansion of the airport infrastructure. India is slated to be the third largest aviation market in the world by 2030 and creation of new capacity along with modernization and up gradation of the existing airports is vital. The Bangalore airport is also experiencing high growth in traffic and we are now 3rd largest airport in the country. I am also aware of the Government's thrust on sectorial growth as is evident from measures and policies being promulgated to match the increasing demand for air travel.

We are in the midst of huge expansion plans consisting of mainly Airfield projects for 2nd Runway, Taxiways, Aprons, Terminal 2 and other associated projects. A Capital outlay of around Rs. 11,000 Crores is estimated for the future expansion projects and we have made considerable progress in execution of their projects. This is very important period for the airport as it seeks approval for its capital expenditure and for the right level of tariff so as to be able to fund this massive expansion program.

I have to share some concerns with respect to the consultation paper referred to above that could be a major setback for our expansion plans. Despite the positive intent of the Government and the regulatory authority in terms of progressive policies and approach, the sector could not attract the requisite private investments in airport projects. This is mainly on account of policy and regulatory uncertainties in the implementation of the provisions of *the Concession Agreement (CA). We have seen inconsistency in the application of the policy amongst similarly placed airports and this approach has also been noted in the current Consultation Paper issued by AERA.*

Most importantly, the tariffs determined should provide the cash flows required to fund and complete the planned expansion of the airport.

The current consultation proposal of the AERA on tariff and capital expenditure show a negative cash flow and results in cash flow gap of approx. Rs. 1,489 Crores for BIAL. This poses a huge challenge as far as funding the project is concerned.

It is very pertinent to note that 92% of the internal accruals / net earnings of BIAL since the opening day (May 2008) has been retained in the business and not distributed to the investors. They have been reinvested to build, enhance and renew the Bengaluru airport capacity to handle the increasing demand of passenger and cargo growth.

It is also important to note that government shareholders i.e. AAI and GoK combined together hold 26% equity in BIAL and both AAI and GoK have informed earlier that they will not be able to infuse additional equity in BIAL. As per the provisions of Share Holders Agreement, the total equity holding of AAI and GoK together should be 26% at all times and no dilution in their stake is possible. Base on the above, in 64th Board Meeting of BIAL held on 16.05.2013 it was resolved that none of the promoters would be in a position to infuse further equity into the project. Having no recourse to infuse further equity, financing the airport expansion project during the second Control Period poses a massive challenge.

Additionally, our lenders require us to maintain certain minimum financial covenants including (1) interest coverage ratio (2) debt service coverage ratio (3) fixed asset coverage ratio. Based on the AERA's business plan, BIAL would default in these financial covenants and this could lead to penal interests and re-pricing of BIAL's debts, which will have a significant impact on our ability to take financing / long term debt for the future expansion projects.

Any delay or deferment of the expansion to the 3rd Control Period would result in stagnation and choking of the airport due to capacity constraints. Hence, it is sincerely requested that AERA may consider allowing BIAL to continue its existing tariffs over the remaining period of the 2nd Control Period. The surplus tariffs allowed to BIAL over the period could be clawed back at the time of the 3rd Control Period on a net present value basis. Such an approach would also result in terms of smoothening of tariffs across the regulatory periods and thereby reducing the tariff shocks to the end users..."

19.3.11 Globe Ground has commented as follows:

"...Globe ground India is proposing above Investments relying upon the promising growth projections of air traffic at the KIA. These measures and investments, however, will only yield results if KIA is able to handle the projected volume traffic at the airport.

To ensure that capacity constraints at KIA do not adversely affect the growth of air traffic and subsequently the financial plans of aviation service providers operating out of airport, we would request the AERA to ensure that sufficient cash flows are available to KIA for the timely expansion of the airport's capacities. AERA should provide interim cash flow support by considering BIAL's submissions on revenue equalisation across regulatory periods; as presented during the stakeholder conference held on 18.06.2018..."

19.3.12 IOCL has stated that:

"...Fuel Throughput charges may only be released on prospective basis..."

19.3.13 Indian Oil Skytanking Private Ltd has stated the following:

"...As a service provider at Bangalore Airport, we support BIAL's submission for continuing the same tariff to meet the expansion plans, in the overall interest of the airport and dependent service providers..."

19.3.14 IATA has stated the following

"...While the adjustment proposed goes in the right direction, we also request AERA to take into account the comments raised in prior proposals relevant to this proposal.

In terms of the rate card, we would also like to propose the removal of any unjustified (and discriminatory) tariff differentials like those existing on landing charges between domestic and international flights. We would also like to propose that any reductions in charges are also applied to the fuel throughput charge (as previously mentioned, such charge is not cost related and should be eliminated or at least brought down)..."

19.3.15 GoK has commented as follows:

"...The Government of Karnataka has on its part assisted BIAL in providing interest free loan & land at a concessional rate. It may be now difficult for further equity infusion and therefore the expansion projects have to be completed through external borrowings and augmented revenue....

AERA may consider the cash flow requirements of BIAL towards capital expenditure and necessary revenue augmentation, while determining the tariffs.

The Revenue augmentation can be done in terms of continuing existing tariffs for the balance period the 2nd Control period. The excess revenues collected can be trued up in the next control period and will smoothen the higher tariffs that are expected in the 3rd Control period due to higher capitalization, thereby mitigating tariff spikes and shocks.

The Government of Karnataka has on its part assisted BIAL in providing interest free loan & land at a concessional rate. It may be now difficult for further equity infusion and therefore the expansion projects have to be completed through external borrowings and augmented revenue.

Government of Karnataka attaches great importance to BIAL and for this reason the vicinity is also being developed. I am certain AERA will consider all such aspects before fixing the tariff for the 2nd Control period..."

19.3.16 Siemens has stated as follows:

"...The current consultation paper proposal on tariff and capital expenditure show a negative cash flow and results in cash flow gap of app. Rs. 1489 Crores. It is important to bring attention that the 92% of the internal generation of BIAL has been reinvested to build, enhance and renew the Bengaluru airport capacity to handle the increasing demand of passenger and cargo growth.

It is pertinent to note that the government shareholders of BIAL both AAI, and GoK have informed earlier that they will not be able to infuse additional equity in BIAL, as per the provisions of shareholder's agreement the total equity holding of AAI and GoK together should be 26% and no dilution is possible. Based on the above, in the 64th Board meeting of BIAL held on 16.05.2003 it was resolved that none of the promoters would be in a position to infuse further equity into the project. Having no recourse to infuse further equity, financing the airport expansion project during the 2nd control period poses a massive challenge.

The existing loan term entered with SBI requires BIAL to maintain minimum financial covenants including (I) interest coverage ratio (ii) debt service coverage ratio (iii) fixed asset coverage ratio each of 1.25. Based on the Authority's business plan, BIAL would default in meeting the financial covenants which could lead to penal interests and re-pricing of BIAL's debts and BIAL will not be in a position to go ahead with the financial closure for the future expansion projects.

Any delay or deferment of the expansion to the 3rd control period would result in stagnation and choking of the airport due to capacity constraints. Hence, it is sincerely requested that the authority may consider allowing BIAL its existing Tariffs over the remaining period of 2nd control period. The surplus Tariffs allowed to BIAL over the period could be clawed back at the time of the 3rd Control Period on a net present value basis. Such an Approach would also result in terms of Smoothening of tariffs across the regulatory periods and thereby reducing the tariff shocks to end-users...."

19.3.17 Sanjeev V Dyamannavar has stated the following

"...Looking back since 2004, how GOK and GOI have given concessions in terms of Land, Interest free Loan, Wavier of All Taxes during construction, Airport Connectivity by burdening Air Passengers thru UDF, it's very clear that both Govts GOK and GOI would like KIAL management to develop Airport efficiently and operate it efficiently with self sustainable without burdening to either Govts. or either Passengers.

New UDF charges for the Airport were due since Apr 2016. Already KIAL has collected excess UDF for the past 27 months, which itself should be sufficient for the 2nd Control period, in view of this we request AERA authority to bring down UDF requirement to Nil for the balance Control period.

After going thru your consultation paper on KIAL, it comes out very clear that Promoters of the BIAL airport have shown least interest in developing overall economic activities around Airport Terminal to generate sufficient revenues which in turn could have taken the Airport expansion and sustenance without burdening to Govts and Passengers. Instead Private investor in the Airport were busy in buying and selling stake during last 12 Years, how to make profit in exchanging the ownership..."

19.4 BIAL's response to Stakeholders' comments on Authority's analysis of ARR

19.4.1 On comments from Bangalore Political Action Committee (B.PAC), BIAL has submitted as follows:

"...B.PAC has commented that KIAB has been operating with unchanged tariffs even after the completion of the First Control Period, contrary to the Authority decision in Order No. 08/2014-15 of truing up traffic based on actual growth during the First Control Period (2011-2016). B.PAC has raised a complaint saying "This has led to a huge accumulation of additional revenue through UDF" and that it is counterintuitive on part of the Authority to allow KIAB to make such super profits while passengers bear the brunt of higher UDF charges.

BIAL would like to submit that the airport is entitled to collect various aeronautical charges consisting of landing, parking, housing and UDF charges. The Authority determines the Aggregate Revenue Requirement (ARR) for the given control period and provides flexibility to the airport to determine the revenue to be collected in terms of various charges as explained above. At the end of the control period, the Authority arrives at the eligible revenue and the actual revenue collected (including UDF). Any surplus / deficit of revenues will therefore, be trued up while determining tariffs for the subsequent control period.

B.PAC has requested the Authority to share in public domain all BIAL's contracts with related parties since its inception and also to conduct an independent verification on whether these contracts are at arms-length.

BIAL submits that being a PPP project and to ensure transparency all its annual reports are provided in public domain. The annual report provides the detailed information about the performance of the company including the details about related party transactions.

Further, BIAL submits that it is managed by a Board consisting of representation from Government of India ('GoI') and GoK and other private promoters. The Board is headed by the Chief Secretary of Karnataka and BIAL's financial performance is audited by a professional and reputed audit firm.

Finally, BIAL would like to highlight that all of its commercial contracts were made available to the Authority for necessary review and consideration while determining tariff. BIAL submits that the commercial contracts cannot be provided in the public domain so as to protect the confidentiality and interest of the organization from competition and the same is in line with AERA's Guidelines 2011 on tariff determination.

In view of above explanation, BIAL states that the return on investment will be provided by the Authority as provided in its regulatory approach and any excess income / revenue, over and above the eligible returns, will be trued up in the next Control Period.

1) B.PAC has given the following four reasons before requesting the Authority to "disallow" a UDF to KIAB:

a. The UDF charged in the first two years of the Second Control Period has led to significant profit margin for KIAB.

b. The actual air traffic at KIAB has exceeded projections and resulted in the airport making substantive profits.

c. Traffic projections for the Second Control Period should be based on a fresh recent survey and not based on a study conducted in 2010.

d. "Non-aero/non-airport" activities have not commenced, leading to a significant lock up of precious land value in a prime location.

2) BIAL submits that any under/over recovery will be considered by the Authority for true up in the CP. Regarding the financial performance for the first two financial years of the Second Control period, the Authority will consider true up as part of the ATP submission. BIAL would like to point that the Authority will take cognizance of the actual traffic while truing up and arriving at the final tariffs.

3) BIAL also submits that the Authority has not relied upon a 2010 study to project traffic at KIAB. Rather, the Authority has made its own assessment of traffic, which is higher than the projections submitted by BIAL.

B.PAC has requested the Authority to instruct BIAL to "submit the Aeronautical revenue in a similar manner which has components of UDF and PSF among others".

BIAL would like to submit that the Authority computes the ARR allowable to an airport operator based on the regulatory approach. The UDF and other aeronautical charges like Landing, parking & Housing charges are resulting out of the ARR.

B.PAC has requested that the Authority should strictly audit, monitor and report BIAL's utilization of funds received through UDF and other Aeronautical charges for the First and the ongoing control period. Further, the Authority should direct BIAL to publish the annual utilization report of the UDF.

4) BIAL submits that the Airport Guidelines has provision for Annual Compliance Statement ('ACS') to be submitted by the Airport Operator along with copies of annual audited accounts and any other information as requested by the Authority. Based on the ACS, the Authority may review and true up the tariff.

5) BIAL further submits that UDF is part of the basket of charges that it is entitled to collect as part of its ARR. Further, the true up process as explained in para 15.1.2 takes into account the surplus / deficit of revenue while determining tariff. There is no specific requirement in terms of collection and utilization of UDF on standalone basis.

Respondent has also requested the Authority to bring down UDF to zero for the remaining years in the Second Control Period as KIAB has collected excess UDF for the past 27 months.

BIAL submits that any under/over recovery will be considered by the Authority for true up in the CP. Any excess charges in the past 27 months of the Second Control Period will be trued up as part of the ATP submission by the Authority while determining the final tariff for the Second Control Period.

B.PAC has urged the Authority to direct BIAL to draw up a Master Plan indicating phase wise development of aeronautical and non-aeronautical facilities along with timelines and costs for the entire land parcel of 4,008 acres and share the same with citizens. The same should be made available on their website and the information should be disseminated widely via English and vernacular dailies inviting citizen comments. BIAL should further hold a public consultation with citizens.

BIAL submits that regular Master Plan updates are being carried out as prescribed by the Government and CA. The same is being shared with various stakeholders like the Ministry, Directorate General of Civil Aviation, Airports Authority of India ('AAI'), GoK, and other government agencies. Therefore, BIAL would like to emphasise that it is compliant with all the requirements in relation to the Master Plan..."

19.4.2 BIAL has concurred with comments made by CELEBI and GoK:

19.4.3 On BAOA's comments, BIAL has stated as follows:

"...Further regarding FTC, BAOA mentioned that airport operators do not provide any facility to oil companies other than allowing them access into the airport. BAOA commented that

airport operators exercise their "monopoly position" and oil companies have no alternative but to bear the high FTC. BAOA has requested the authority to standardise FTC between Rs. 100 to Rs. 150 per KL throughout India, rather than allowing variable charges (Kolkata Rs.1478.94 per KL, Bengaluru Rs. 1067.00 per KL, Delhi Rs. 688.00 per KL and Pune Rs. 112.1 per KL). The FTC being levied by BIAL is a reasonable charge which has remained unchanged in the last 10 years and based on the commercial terms to gain access to airport and potential growth in business and revenue..."

19.4.4 On IOC's comments, BIAL has stated as follows:

"...While IOCL has no comments to offer on the CP, it has however requested the Authority that the revision of FTC may only be released on prospective basis. BIAL submits that it has considered the existing FTC for the Second Control Period as well for the purpose of tariff determination..."

19.4.5 On comments from *CCS*, BIAL has submitted as follows:

"...CCS has stated that they would be able to better appreciate the submissions of BIAL and the comprehensive analysis made by the Authority had comparable data and industry benchmarks been provided on other national and international airports. It further stated that the Authority has confined itself to analysing the submissions made by BIAL.

BIAL submits that the Authority is the expert body appointed by an act of Parliament for tariff determination and necessary compliance. The Authority, being the expert body, has arrived at the regulatory philosophy and tariff guidelines after taking into account the specific requirements of the Indian Aviation industry. BIAL submitted its tariff proposal in line with the regulatory guidelines established by the Authority and also in consideration of the provisions of its CA and other project agreements as applicable.

1) BIAL notes the comment made by CCS regarding there being a "large" difference between the Yield Per Passenger ('YPP') requested by BIAL against that proposed by the Authority.

2) BIAL would like to submit that its MYTP submission to the Authority for tariff determination is based on provisions of various project agreements such as CA, LLD, amongst others and within the economic regulatory framework established by the Authority. Accordingly, no frivolous submissions have been made to the Authority.

3) Also, in response to CCS's comment on comparing YPP across airports, BIAL submits that YPP is determined based on a combination of multiple factors including traffic, capital expenditure, operating expenditure, nature of airport, provisions of the Concession Agreement, among others. These factors differ across various airports and the individual tariff determination exercise for each airport takes into account each of these factors. Therefore, YPP is not comparable between airports.

4) Finally, BIAL notes the comment made by CCS questioning how the YPP would be recovered since it is not possible to recover the exact amount from each and every passenger. BIAL would like to submit that the YPP represents the average revenue that can be collected on a per passenger basis, which is divided into a basket of charges representing direct charges for airlines like Landing, Parking and Housing charges and indirect charges such as User Development Fee.

CCS has made a request to BIAL to exercise reasonableness in determining tariffs on those other charges, which it is free to determine, in the interest of passengers.

BIAL would like to assure CCS that it considers passenger interest to be of paramount importance while pricing the facilities and services that its offers, which do not come under the explicit purview of economic regulation...."

19.4.6 On comments from Sanjeev V Dyamannavar, BIAL has submitted as follows:

"...Respondent has requested for details for aeronautical revenues from the Authority.

As part of the regulatory approach for tariff determination, the Authority determines the ARR and subsequently, based on consideration of the ATP, the Authority shall finalize the tariff to be collected.

Respondent has commented that the promoters of KIAB have shown least interest in overall development of economic activities around the airport terminal to generate sufficient revenues, which in turn could support the Airport's expansion and sustenance without being an economic burden to the government and passengers. The Respondent added that BIAL's private investors were "busy in buying and selling stake during last 12 years, how to make profit in exchanging the ownership". BIAL wishes to submit that it is a pioneer in PPP model of airport development and operations with the State and Central government having 13% stake each represented by Karnataka State Industrial and Infrastructure Development Corporation Limited (KSIIDC) and AAI respectively. The Chief Secretary of GoK is the Chairman of BIAL's Board.

The KIAB has been witnessing high growth right from AOD and BIAL has been continuously creating the necessary capacities on the airside and landside to facilitate the growth. BIAL has re-invested around 92% of the resource generated into the business for capacity expansion / servicing debts / running of the airport..."

19.4.7 On comments by IATA, BIAL has stated as follows:

"...1) IATA has proposed that the removal of any unjustified (and discriminatory) tariff differentials like those existing on landing charges between domestic and international flights. Further, IATA has proposed that any reductions in charges are also applied to the fuel throughput charge ('FTC') (as previously mentioned, such charge is not cost related and should be eliminated or at least brought down). In the context of the rate card, BIAL does

not agree with IATA's view that the tariff differential on landing charges between domestic and international flights is unjustified. The differentiation in rates is a worldwide phenomenon and almost all airports in world particularly the European and Australian airports have a differential pricing amongst domestic and international passengers because of the differentiation in service and time spent at airport. The charges are non-discriminatory as they are applied universally across all carriers (foreign registered and Indian registered) operating on the same route and in line with ICAO principles (Doc 9082).

Further, BIAL also notes IATA's proposal to bring down FTC in case of reduction in charges. BIAL would like to submit that the Authority has determined the FTC for Indian Oil Sky tanking Private Ltd at the rate of Rs. 1,067/KL as airport operator fee as was determined in First Control period, and as has been retained for Second Control Period. There has been no increase in FTC to BIAL..."

19.5 BIAL's comments on Authority's analysis of Aggregate Revenue Requirement

19.5.1 BIAL has submitted as follows:

"...On Authority's proposal to consider the Aggregate Revenue Requirement ('ARR') as detailed in Table 67 Para 17.2.2 of the CP as the eligible ARR for the second control period for BIAL.

AERA's Treatment

Cash Flow Scenarios resulting in negative cash, additional equity infusion and possible default on financial covenants

As per the Authority's estimates (business plan used for the purpose of the CP), BIAL is likely to have a negative cash flow of ~Rs. 7 crores by the end of the Second Control Period. Further, with internal accruals projected as per the Authority's calculations, there is a requirement of an additional equity infusion of ~Rs. 413 crores; considering an average 74% gearing ratio.

Capital expenditure not considered by the Authority

The Authority has only considered Rs. 9,344 Crores of capex of the amount submitted by BIAL, whereas, the total capex requirement (assuming the Authority's estimate of soft costs) of BIAL is around Rs. 10,555 crores. As a result, BIAL will need to fund this deficit of Rs. 1,212 crores through other means of finance.

BIAL Submission - Summary of Equity Deployment till date

BIAL would like to submit that till date, only 2% of the internal resource generation has been disbursed to the equity investors and BIAL has re-invested 92% of the resource generated into the business - either for capacity expansion / servicing debts / running the airport. Authority may note the summary of the Equity and Internal Accrual deployment over the period FY 2008-09 to FY 2017-18.

Particular	Amount	%	Comments
Equity and Internal Accrual	3,820		
Deployment of Equity & Accruals			
• Dividend Payout	93	2%	Disbursed to Equity Shareholders
• Investment in hotel	233	6%	Investment enforced as result of arbitration
• Reinvestment of accruals to Airport business	2,779	73%	Already reinvested into the business
• Cash in hand as on Mar 18	716	19%	To be reinvested into the business

Negative Cash Balance

We would like to highlight to the Authority that even as per their business plan, BIAL's cash balance would be negative in years FY 2020 (Rs. 9 crores O/D) and FY 2021 (Rs. 7 crores O/D); resulting in inadequate cash for future expansion or even regular operations of the airport. BIAL requires ~ Rs. 70 crores of cash in hand (equivalent to 45 days expenses) to run the airport.

Computing the cash flow requirements of BIAL for Second Control Period

Based on the approved capex, BIAL has estimated the cash flow support required by BIAL for the Second Control Period. BIAL's computation in this regard has been presented below:

Particulars		In Rs. Crores
Amount allowed by the Authority for CP2*	A	9,344
Additional amount not considered by the Authority	B	1,212
Total funding requirement in CP2	C=A+B	10,556
Assuming 70:30 ratio		
Equity + Internal Accrual required in CP2	D=30% x C	3,167
Internal Accrual invested in first 2 years	E	821
Opening Cash Balance before tariff revision	F	716
Cash generated in the remaining years of CP2	G	141
Cash Flow Support required in CP2	**H=D-E-F-G**	**1,489**
**CP2 refers to the Second Control Period of BIAL*		

As can be seen, BIAL will need at least an additional cash of ~Rs. 1,489 Crores to be able to fund capital investments in the Second Control Period.

Inability to infuse further equity

We would like to submit, based on the computation by Authority, BIAL would require an equity infusion of ~Rs. 413 crores for future expansion & operational requirements during the Second Control Period. As per the provision of BIAL Shareholder Agreement, the total equity holding of AAI and GoK together should be 26%. Also, the maximum Equity Contribution from AAI is capped at Rs. 50 crores. Since, AAI has cap of Rs. 50 crore which has already been invested by AAI as part of the existing Shareholding, any additional equity infusion to maintain State Promoter equity holding @ 26% should be from GoK. However, the GoK vide letter dated 26.08.2013 to the Authority has indicated their inability for additional equity infusion.

The excerpts of the respective clauses from Shareholders Agreement (SHA) are reproduced below:

"...1.1 'AAI Equity Cap' means the maximum Equity Contribution of AAI, not exceeding Rs. 50,00,00,000/- (Rupees Fifty Crore)

7.6 (ii) Subject to the AAI Equity Cap, the combined shareholding of the State Promoters shall be no less than twenty-six percentage (26%) of the total paid up share capital and KSIIDC, or its affiliates, shall contribute to such additional amounts to maintain the combined shareholding of twenty-six percentage (26%) if the AAI Equity Cap is reached."

Further, the BIAL Board deliberated the matter in the 64th Board Meeting held on 16.05.2013 and resolved that none of the promoters would be in a position to infuse further equity into the project.

The 64th Board Meeting resolution are reproduced below –

"Infusion of further equity into the project

The Board deliberated the matter further and asked Management to closely work with the Regulator to arrive at the Tariff and on the issue of infusion of further equity, the Board Members stated that none of the promoter would be in a position to infuse further equity into the project"

Possible Default on Financial Covenants

The Authority has considered a high gearing ratio of 74% whereas the acceptable gearing ratio from lenders is 70%. Any debt to be considered higher than 70% would not be possible as there could be issues to comply with the financial covenants.

Based on existing arrangement with the State Bank of India ('SBI'), BIAL has committed to maintaining certain financial covenants including (i) debt service coverage ratio, (ii) interest coverage ratio and (iii) fixed asset coverage ratio each of 1.25. Based on the Authority's business plan, BIAL would default on its financial covenants such as Debt Service Coverage Ratio.

Annual Tariff Proposal (ATP) Submission of BIAL – Request for an equalized tariff for the entire Second Control Period, in terms of continuing existing tariff

BIAL requests Authority to peruse over the details pertaining to ATP submitted vide its e-mail dated 2.06.2018. However, BIAL would appreciate the opportunity to have an equalized tariff for the entire Second Control Period, in terms of continuing existing tariff as explained in the submission.

Regulatory precedent adopted by the Authority - Cash flow support provided to DIAL

The Authority vide Order No. 40/2015-16 stated that "Decision No.23b. - ...the Authority to grant an additional ARR of Rs. 691.50 Crores as on 01.01.2016 to help DIAL meet its cash deficit over the Second Control Period."

The Authority has taken the above view that it will provide an additional ARR to DIAL to cover for its estimated cash deficit for the Second Control Period so as to avoid default debt servicing, etc.... BIAL too is undertaking huge capital investment to cater to the increasing traffic and in the process of building second Runway and Terminal along with associated projects. It is essential that sufficient cash is available to fund these capex investments and ensure that there is no delay in project execution on account of lack of sufficient funds.

Accordingly, BIAL would request the Authority to consider its below-mentioned proposal on revenue equalization.

On Authority's proposal to ask BIAL to submit the Annual Tariff Proposals within 7 days from issue of this Consultation Paper which will be reviewed and put up for stakeholder consultations.

BIAL Submission on various proposals including plea for revenue augmentation, revenue equalization and cash support augmentation

BIAL was asked to submit the ATP, which would be reviewed and put for stakeholder consultation. BIAL submitted the Annual Tariff Proposal and the Variable Tariff Proposal ('VTP') to the Authority on 06.06.2018. Vide its proposals in the CP, the Authority has taken stand on various issues estimating the ARR and Yield. BIAL wishes to make its submission on the various proposals including plea for revenue augmentation, revenue equalization and cash support augmentation.

As highlighted above in the section on ARR, BIAL is in the process of undertaking huge capital investment to cater to the high growth in traffic. The Authority has considered capex investment to the tune of ~Rs. 9,344 crores; however, an additional amount of ~Rs. 1,200 crores is also expected to be spent during the Second Control Period. There are other capex investments like Terminal T2 Phase 2 and related works amounting to ~Rs. 4,000 crore, which will be invested in the Third Control Period.

BIAL has undertaken accelerated investments including investment in interim terminal development, second runway, Terminal T2 Phase 1 and Phase 2, sustaining capex and associated infrastructure in Second and Third Control Periods. BIAL is witnessing high growth in passenger traffic and the capex investments required to cater to the growth and the investments are advanced to earlier period than envisaged in Master Plan on account of high growth.

BIAL submits that airport projects are capital intensive in nature and ARR of the airport tends to be substantially higher in regulatory control periods where large projects are under execution like in the case of BIAL. The variation in the tariffs charges over different regulatory periods caused mainly by the implementation of major projects usually result in tariff fluctuations which are undesirable and create an uncertain business environment for all the stakeholders in the sector. The regulatory philosophy and approach ensures higher *tariff and increase in cash flows post execution of the projects. However, the need for the cash flow augmentation is required during the project execution phase as the outflows are higher during this period. In case of BIAL, the project execution is underway during the Second Control Period. However, the cash inflow in form of adequate tariff and revenue generation is substantially lower during this time.*

Due consideration of the submissions made by BIAL as part of this document by the Authority will enable the airport to augment revenues and cash flows so as to be able to fund these crucial capacity enhancement programs. The nature of projects undertaken by BIAL are capital intensive having long gestation period and there is an inherent mismatch between the timing of cash outflows and inflows, which is likely to cause financial difficulty given the scale of such investment. BIAL would request the Authority to consider necessary revenue augmentation to BIAL for the current control period to have adequate cash flows to fund the future expansion.

In the light of above, BIAL requests the Authority to consider the proposal of allowing BIAL to continue with the existing User Development Fees – Domestic & International - for the balance period of the Second Control period, so as to have adequate cash flow support to undertake the envisaged investments. Such continuation of existing tariff is required in the scenario of cash flow shortfall resulting after final tariff determination, as the case may be. BIAL proposes to submit that any over recovery in the Second Control period will go to reduce the tariff impact for the Third Control Period. The revenue distribution / equalization for Second and Third Control Period will lead to balanced tariff and not result in tariff shock between regulatory periods as well. This will help in overcoming infrastructure bottleneck and planned investment can be undertaken to promote growth.

Expert views from former UK Civil Aviation Authority ('CAA') (2003-10) Regulator Harry Bush on advancing revenue to assure investment and a sustainable price path

Further, BIAL had requested Mr. Harry Bush to draw his experience as economic regulator at the UK CAA (2003-10) and as a regulatory adviser to regulators and airports since on how the RAB based mechanisms used by the Authority should be best designed to facilitate the scale of investment in prospect at BIAL and whether the fast-growing nature of the Indian aviation market poses challenges for these arrangements. At the outset of his note, Harry has explained the nature of an airports investment cycle and its relationship to pricing and regulatory frameworks. Harry pointed out towards the capital-intensive nature of airports and specified that they require 'a continuing stream of investment to maintain, modernise, expand and, ultimately, replace facilities'. He further mentioned that while some of these investments result in small ('incremental') increments to the initial investment there are points where traffic growth calls for more 'lumpy' investments in a new runway / terminal which result in a significant increase in the capital base of the airport. Regarding the *analysis of the airport investment cycle and its implications for the design of airport regulatory frameworks, Mr. Harry Bush mentioned that,*

"... these should seek to mimic or at least reflect some of the pressures that would obtain in a functioning market they should recognise the centrality of the investment cycle to airport economics and seek to accommodate the periodic lumpiness of airport investment.

-ensure that airports entering a heavy investment period should have the cash flows that assist in making the investment financeable and underpin the business case for third party financiers create a price profile which is consistent with the higher costs likely to be generated by sizeable investments."

Mr. Harry Bush subsequently spoke about the potential problems with cost-based regulation, where he stated that in conditions of 'steady, slow passenger growth and limited incremental investment' the basic RAB pricing model may lead to relatively stable prices. However, in a fast-growing market that is approaching a 'lumpy' investment, this would not be the case. In such a scenario there could be disjunctions as a result of the following factors,

"-a depreciation profile, reflecting the age of existing assets.

-a reducing price profile that accompanies the 'sweating' of existing assets through traffic growth.

-to be followed in a subsequent regulatory period by a major investment in capacity designed to relieve the congestion which has contributed to the previously reducing price profile

-a resulting mismatch in the profile of regulatory depreciation and projected capital spend reflecting the age of existing assets and the lumpiness of planned investment

-and, as the regulatory asset base dlminlshes over time due to depreciation, the lower overall returns to the airport further reduce the cash available to the airport operator"

Accordingly, Mr. Harry Bush mentioned that a number of steps can be taken to mitigate impacts of the above and smooth the effect to the benefit of both airports and their customers; especially for major airport projects where the adverse consequences for the stakeholders are likely to be severe. Mr. Harry Bush has therefore discussed a few measures to enhance the RAB framework including (i) lengthening the regulatory period, (ii) remunerating assets in the course of construction ('AICC') and (iii) equalising between regulatory periods to smooth prices and improve cash flows. Regarding the third measure on revenue equalization, Harry mentioned that it involves the movement of revenues between regulatory periods to smooth the impact on prices and to assist in the financeability of 'lumpy' investments where remuneration of AICC alone would not generate sufficient cash flow relief for the airport operators. Here, the revenue the airport receives would deviate from its costs in each period being above in one but below in another.

However, the approach would be consistent with prices reflecting costs over time, while taking these periods together. He also states that transferring revenues between periods enables regulators to retain the forecasting benefits of the shorter period while paying heed to the impact of developments over a longer time period.

Further, Mr. Harry Bush mentions that an interesting point about the three adjustments explained in his note is that they do not result in any extra cost for airlines but re-profile the costs over time to enable the airport to finance the necessary investment. Outcomes of the approach include creating a pricing profile which is more adapted to sustainable development of aviation at the airport and reducing the risk of cash flow impediments to the implementation of investment plans that will benefit passengers and the wider economy.

Lastly, Mr. Harry Bush has commented on whether the faster growth in India makes any difference to his analysis. His view on the matter is that it makes it more urgent to consider how RAB regulation should be adjusted for the following reasons,

"-faster growth means that 'lumpy' investments are likely to be more frequent as demand outstrips supply

-while in the pre- investment period fast traffic growth is likely to have acted to depress prices more speedily and, depending on the pattern of regulatory depreciation, more deeply than it might in more mature economies

-as a result, the congestion premium available to airlines in the fares charged to passengers could quickly become significant and itself incentivise recipient airlines to oppose or delay capacity expansion, to the detriment of passengers and the economy"

Mr. Harry Bush has accordingly recommended that in such circumstances regulators "need to weigh up how best to facilitate and incentivise the necessary investment". He has also mentioned that the level of returns available and other parts of the regulatory settlement will be important as well as the availability of cash flows. A detailed note prepared by Mr. Harry Bush has been annexed with BIAL's submission.

***BIAL's Submission:** - As KIAB is the kind of airport where the above constructs apply, BIAL would request the Authority to allow KIAB to continue levying the existing User Development Fees – Domestic & International - for the balance period of the Second Control period, so as to have adequate cash flow support to undertake the envisaged investments."*

19.6 Authority's examination of Stakeholders' comments on ARR

19.6.1 The Authority has carefully evaluated the submissions made by stakeholders regarding ARR and cash flow required for Projects.

19.6.2 Authority has recomputed the ARR considering various decisions listed in this Order. Recomputed ARR is as given below:

Table 74: ARR recomputed by the Authority for the second control period (Rs. Crore)

ARR as computed by Authority	FY 2017	FY 2018	FY 2019	FY 2020	FY 2021	Total
Average RAB	2236.67	2312.63	2787.08	4258.27	7707.87	
FRoR	11.93%	11.93%	11.93%	11.93%	11.93%	
Return on RAB	266.73	275.79	332.36	507.81	919.18	2301.86
Depreciation	188.44	199.40	394.07	305.24	451.05	1538.20
Operating Expenditure	323.36	357.26	395.60	443.58	515.26	2035.05
Working Capital Interest	21.54	2.73	13.48	13.76	13.10	64.60
Tax	71.34	97.04	0.00	0.00	0.00	168.38
Less: Non Aero Revenues	-108.19	-130.03	-130.54	-141.15	-154.20	-664.11
Aggregate Revenue Requirement	763.21	802.18	1004.97	1129.23	1744.39	5443.98
Add: Shortfall recovery for First Control period	-313.62					-313.62
Total ARR recalculated by Authority	449.60	802.18	1004.97	1129.23	1744.39	5130.37
Discounted value of ARR	449.60	716.71	802.23	805.38	1111.56	3885.47
Actual/ Proposed Collections	997.27	1122.30	903.93	758.11	978.03	4759.64
Discounted value of collections	997.27	1002.72	721.57	540.69	623.22	3885.47

19.6.3 The main changes made by the Authority impacting the Aggregate Revenue Requirement relate to change in date of capitalization of Terminal building - T2, reduction in depreciation, adoption of 30% Hybrid Till for First-Control period, maintaining the status-quo regarding shortfall/ over-recovery for the Pre-control period etc.

19.6.4 The Authority has carefully reviewed the submissions made by BIAL and other stakeholders with regard to the need for making cash available to take care of the Project Requirements. The Authority also notes BIAL and certain other stakeholders' requests for continuance of existing tariff as a means of funding the cash flow required for the Project.

19.6.5 The Authority has also carefully reviewed the submissions made by BIAL and other Shareholders that no further Equity infusion is possible into the company.

19.6.6 The Authority also has carefully reviewed the Opinion provided by Mr. Harry Bush (Former UK Civil Aviation Authority) on precedents and scenarios where the tariff can be moderated to provide for the cash flow support. The Authority also notes that BIAL has, in many references in its response submitted that any additional charges/ reduction in costs/ increase in collection from Non-Aeronautical sources are all available for "True-up" with carrying cost and hence implied that there are no incremental charges levied on the passengers.

19.6.7 The Authority notes that a similar requirement for a different regulatory framework (30% Hybrid Till) than what was proposed by the Authority was made by BIAL at the time of determination of tariff for the first control period. The Authority notes that in this Control

Period, BIAL has sought for tariff to be determined and provided beyond even the changed Regulatory framework of considering 30% Hybrid Till.

19.6.8 The Authority has reproduced below certain paras from the earlier Consultation paper and Order of First Control period for BIAL.

"...Consultation Paper No.14/ 2013-14

28.15 In the current control period, in view of the immediate need for fresh capital for expansion needs of Bengaluru International Airport, the Authority does not propose to go into the issue of mutual impact of these different provisions on each other with respect to possibility or otherwise of infusion of additional share capital either by KSIIDC (under Clause7.6 (i) of Shareholders' Agreement) or the private promoters (clause 7.6 (ii) of Shareholders' Agreement). Taking into account the submission of BIAL referring to the decision of the Board in its meeting referred to in Para 28.8 above that no further fresh capital is possible to be infused into the company, the Authority proposes to proceed for tariff determination assuming that additional equity capital may not be forthcoming for the expansion during this control period.

28.16 The Authority therefore infers that the Shareholders are unable to infuse additional equity.

The Authority notes that under various other Airport Regulatory Policy regimens in the world ensuring appropriate funding of an Airport dependant on mutual agreements of the Shareholders' is generally not regarded as a stated objective of the Regulator. For example, the Authority has noted the following:

"...The matters to which the CAA must have regard under subsection (3) include:- a) the need to secure that each licence holder is able to finance its provision of airport operation services (subsection (3)(a)). Whilst this should require the CAA to encourage efficient and economic investment by allowing a reasonable return over time, the financing duty does not require the CAA to ensure the financing of regulated airports in all circumstances, for example the CAA would not be required to adjust regulatory decisions in order to take account of an operator's particular financing arrangements or put the interests of users at risk by making them pay for an inefficient operator's financing decisions."

Para 36 of EXPLANATORY NOTES Civil Aviation Act 2012 Chapter 19

28.18 The Authority has already analysed the various covenants of the Land Lease deed where it has been noted that land has been given by the GoK expressly stating as "to improve the viability of the Project and enhance the bankability of the initial phase". Clause 4.2 of the Land Lease Agreement mentions, inter alia that "improving the commercial viability of the project" is one of the purposes of use of the Site. BIAL has however not so far given any proposal to the Authority to monetise or commercially exploit this land. BIAL has stated that "in view of the business plan for real estate activities not being firmed up, real *estate business scenario has not been considered in the submissions". The Authority expects that BIAL would make efforts to appropriately monetise these lands to generate adequate funds required for the expansion, as well as other appropriate alternate financial instruments.*

Order No. 08/2014-15

4.232 Organising the Means of Finance for the Project or its expansion is the primary responsibility of the Airport Operator. Tariff determination is based on the costs associated with such means of finance as may be organised by the Operator..."

19.6.9 The Authority also notes that one of the functions of the Authority also includes "to determine tariff for the Aeronautical Services taking into consideration .... (iv) economic and viable operations of major airports". The Authority notes that this indicates that the Airport Operator should get a fair rate of return for operations of the Airport. (Para 22.4 of CP on Shared Till of First Control Period)

19.6.10 The Authority has, in the past reiterated that the manner of raising finance for funding the Project should be the primary responsibility of the Airport Operator and the Airport Operator has to evaluate and identify different means of finance, should the debt equity gearing prevent raising of additional debt. These could include different financing instruments, monetization of additional land available etc.

19.6.11 The Authority also emphasizes that the Tariff Determination for a control period should be based on a structured framework. The Authority has laid down a framework for determination of tariff in the form of computing the Aggregate Revenue Requirement as per the principles detailed in the "Airport Guidelines" and "Airport Order". Determination of any value as Aeronautical charges and UDF, which is different from the ARR defined means disregarding the established framework which is not appropriate. Tariff determination exercise cannot be done on an arbitrary and different basis, leading to an amount more than the entitlement being given to the Airport operator.

19.6.12 The Authority notes that the key aspects that lead to Privatisation was to bring in the investment by way of private capital and for improvement of efficiency.

19.6.13 The Authority notes that BIAL has drawn reference to the cash flow support provided by the Authority to DIAL. This was the cash flow support provided for making the operations viable and this is not the case with BIAL.

19.6.14 The Authority has carefully evaluated the submission made by BIAL in computing the cash available for Operations and the Shortfall required to be bridged. The Authority notes that the estimated cash flow generation from Operations in the balance control period considered by BIAL includes:

19.6.14.1 Proposed Dividend Distribution to Shareholders.

19.6.14.2 Proposed funding for Hotel Project (which is not part of core Airport Operations).

19.6.14.3 Incorrect consideration of Interest outflow on debt.

19.6.14.4 Consideration of repayment of State support loan from 2018-19, which has been subsequently deferred by the GoK.

19.6.15 The Authority notes that at times of large scale expansion needing cash to be deployed, the Authority cannot be expected to provide for additional tariff to ensure cash flows to make pay-out to Shareholders as Dividend and to fund "Non-Airport" activities.

19.6.16 The Authority also notes that BIAL has assumed pay-out of all expenses to Contractors (except for Rs. 50 crores remaining as Creditors) at the time of completion of Project (By March 2021) where major scale of Capital Expenditure is incurred. BIAL has also considered a maximum debt draw down of 70% of the total cost of the Project. The Authority notes that this debt draw down ratio could be increased based on BIAL's strong performance in the past and considering the clarity on the revenue and the established regulatory philosophy.

19.6.17 The Authority also noted that the requirement or the gap is short term in nature wherein large sums of money are proposed to be spent over the remaining 2.5 years in the current control period. With the projects proposed being capitalised and put to use, the Authority notes that the returns on the RAB will be available to BIAL leaving cash surplus in the future control periods. The Authority also notes that BIAL has not submitted details of any other alternatives explored by BIAL for raising the funds for the Project.

19.6.18 Without prejudice to the analysis detailed above, the Authority has computed an estimated (approximate, not accurate) cash flow for BIAL considering the revised ARR as detailed in this Order and has noted that the shortfall, even assuming a 30% debt draw down is less than Rs. 180 crores and not near the value as submitted by BIAL. The Authority notes that this could be influenced by various factors including actual project cost, revenues, spend pattern etc. Key data points are given below:

Table 75: Indicative cash flow estimate as recomputed by the Authority (Rs. Crore)

Particulars	Rs. Crore	Remarks
Total Capital Expenditure requirement (as per reworked model reconciled with BIAL)	10429	
Add: Additional capex cost estimate as per BIAL not considered by the Authority	600	
Less: Creditors – Payment deferrals for projects completed in 2020-21 (Estimated at 10% of last year spend)	(300)	
TOTAL	10729	
Funding requirement at 30%	3219	
Less: Cash already deployed and cash available as of 1st April	(1537)	As per submission

Particulars	Rs. Crore	Remarks
2018		made by BIAL
Less: Cash available from Operations (Based on model reconciled with BIAL, considering revised revenues; without considering Dividend payout, Funding for Hotel, state support loan repayment and after including estimated Rs. 100 Crore working capital drawdown)	(1504)	
Shortfall	178	
Note: These are estimate and indicative numbers based on assumptions and computations made by the Authority		

19.6.19 In view of the analysis stated above, the Authority is not convinced of providing for additional revenues beyond the computed ARR for the purpose of making cash flows available for the Project. The Authority urges BIAL to evaluate the cash flow position and should there be a need, evaluate other alternates for mobilising funds for the Project. Considering the growth in revenues, the Authority does not expect BIAL to have any shortfall in cash flow.

19.6.20 The Authority notes comments from certain stakeholders on need to rationalize the Fuel Farm charges. The Authority decides to continue the current practice on the same and will review the same for future.

19.6.21 Considering the timeline of the Order, the Authority decides to implement the revised Tariff on all tickets issued with effect from 00:00 hours IST of 16th September 2018. The Authority had sought Tariff Plan from BIAL which the Authority has received on 29th August 2018.

19.6.22 Break-down of Aeronautical Revenues – Actuals and Proposed, matching the Aggregate Revenue Requirement is as given below:

Table 76: Aeronautical Revenue Break-up (Rs. Crores)

Break-up of collections	FY 2017	FY 2018	FY 2019	FY 2020	FY 2021	Total
Landing, Parking and Housing Charges	315.74	348.63	281.03	188.36	215.92	1349.68
Cargo, Ground Handling, Fuel Farm, and Lease Rentals	180.41	195.91	205.43	228.10	262.20	1072.05
User Development Fee	501.13	577.76	417.33	341.79	499.90	2337.90
Total	997.27	1122.30	903.79	758.26	978.02	4759.63

19.6.23 The Authority had noted that BIAL proposes to implement a Variable Tariff Plan in addition to the standard Tariff Plan. The Authority noted that BIAL has proposed to offer discounts during the "Red Eye" period along with other discounts to domestic and International Aircrafts for new flights, up gauge, new route etc. Clarifications provided by BIAL for the same is as follows:

"...All incentives under the VTP for the domestic carriers falls primarily under the red eye hours of operations. These categories are Existing Flight, Up-Gauge, Additional Frequency, New Flight and New Route.

The reasons for offering discounted tariff in additional categories is as explained below:

***Discount for NEW domestic route (Pax and Cargo)**: This is primarily to provide enhanced direct travel opportunity to the passengers by helping airlines mitigate their risk of operation to an unserved market. This aspect of Incentivization directly ties-In with the policy of government of India, which is to bring the air connectivity to the hinterland destinations of India. Last but not the least, it gives the bandwidth to airport network to ultimately achieve the vision of transforming the airport into a true transit/transfer hub.*

***Discount for International Flights (Pax and Cargo)**: The prime intent to provide discount for international flights is to help grow the international network of the airport as International air connectivity is directly linked to the generation of economic growth of the region resulting in increased job creation and facilitation of International Trade. The benefits of the International connectivity and quantum of spend by foreign tourists is well captured in studies like 'National Council of Applied Economic Research' (NCAER) and study released by Tourism Statistics of India. Similarly, based on the draft air cargo policy and NCAP 2016 there has been focussed approach to increase air cargo volumes for the country to not only facilitate higher trade but to even reduce logistics cost by bringing economies of scale in the cargo business. With this objective in mind and so as to build BLR airport into a true International Gateway/Hub, we have categorized the discount under following sub-categories as captured below:*

***Discount for Up-gauge of aircraft:** This means that any international airline up-gauging their aircraft will be eligible for this discount. The reason for such discount is that an airline is serving more passengers without necessarily consuming additional airport resources, thereby bringing operational efficiencies to the entire system*

***Discount for Additional frequency/New flight:** This is simply for the perspective that additional international flights will provide more options to the passengers and lead to the market stimulation, thereby contributing to the growth of the local economy and region*

***Discount for NEW International Route:** The idea of new route Incentivization is similar to what is explained above for the domestic new route, the only difference being that a new international route has a much wider implication on the economy of the region from both trade and tourism perspective. The additional 1-year discount for wide body aircrafts is because traditionally it has been observed that the breakeven period for wide body operations is anywhere between 18-24 months..."*

19.6.24 The Authority notes that BIAL has also submitted variable tariff plan. However, due to capacity constraints prevailing at the airport, the Authority decides to consider discounts only for flights operating in red eye period, new international routes for passenger flights and new cargo freighters only while truing up the actuals. The revised Variable Tariff Plan together with the Annual Tariff Plan provided by BIAL matching the ARR and Projected Revenues is as enclosed in Annexure.

19.6.25 Comparative analysis of existing tariff and revised tariff based on this Order is as given below:

Table 77: Comparison of Aeronautical Charges and UDF - Existing and Revised

Particulars of charge			**Existing Rates**	**Revised Rates**		
				16th Sep 2018 to 31st March 2019	**1st April 2019 to 31st March 2020**	**1st April 2020 to 31st March 2021**
Landing Charges	International	Upto 100 MT	Rs. 650.40 per MT	Rs. 260 per MT	Rs. 270 per MT	Rs. 281 per MT
		Above 100 MT	Rs. 65,040/- + Rs. 874.00 per MT in excess of 100 MT	Rs. 26,000/- + Rs. 350 per MT in excess of 100 MT	Rs. 27,000/- + Rs. 364 per MT in excess of 100 MT	Rs. 28,100/- + Rs. 378 per MT in excess of 100 MT
	Domestic	Upto 100 MT	Rs. 331.20 per MT	Rs. 132 per MT	Rs. 137 per MT	Rs. 142 per MT
		Above 100 MT	Rs. 33,120/- + Rs. 445.10 per MT in excess of 100 MT	Rs. 13,200/- + Rs. 178 per MT in excess of 100 MT	Rs. 13,700/- + Rs. 185 per MT in excess of 100 MT	Rs. 14,200/- + Rs. 192 per MT in excess of 100 MT
Parking and Housing Charges	Parking	Upto 100 MT	Rs. 8.90 per hour per MT	Rs. 4 per hour per MT	Rs. 4 per hour per MT	Rs. 4 per hour per MT
		Above 100 MT	Rs. 890/- + Rs. 11.80 per MT per hour in excess of 100 MT	Rs. 400 + Rs. 5 per MT per hour in excess of 100 MT	Rs. 400 + Rs. 5 per hour in excess of 100 MT	Rs. 400 + Rs. 5 per hour in excess of 100 MT
	Housing	Upto 100 MT	Rs. 17.70 per hour per MT	Rs. 7 per hour per MT	Rs. 7 per hour per MT	Rs. 7 per hour per MT
		Above 100 MT	Rs. 1,770/- + Rs. 23.50 per MT per hour in excess of 100 MT	Rs. 700 + Rs. 9 per MT per hour in excess of 100 MT	Rs. 700 + Rs. 9 per MT per hour in excess of 100 MT	Rs. 700 + Rs. 9 per MT per hour in excess of 100 MT
User Development Fee	International		Rs. 1226 per depax	Rs. 400 per depax	Rs. 558 per depax	Rs. 716 per depax
	Domestic		Rs. 306 per depax	Rs. 100 per depax	Rs. 139 per depax	Rs. 179 per depax
Fuel Throughput Charges			Rs. 1067 per KL	Rs. 1067 per KL	Rs. 1067 per KL	Rs. 1067 per KL
CUTE/CUSS/BRS Charges			USD 1 per depax	USD 1 per depax	USD 1 per depax	USD 1 per depax

Decision No. 16. Regarding Aggregate Revenue Requirement

16.a. Based on the material before it and its analysis, the Authority decides:

i. **To consider the Aggregate Revenue Requirement as detailed in Table 74 Para 19.6.2 above as the eligible ARR for the second control period for BIAL.**

ii. **Annual Tariff Plan and Variable Tariff Plan detailed in Annexure will be effective on all tickets issued from 00:00 hrs (IST) of 16th September 2018.**

20 Summary of Decisions

21 Order

21.1.1 In exercise of powers conferred by Section 13 (1) (a) of the AERA Act 2008 and based on the above decisions, the Authority hereby determines, the Aeronautical tariffs to be levied at Bangalore International Airport for the second control period as placed at Annexure I, and Annexure II. These rates will be effective from 00:00 hours of 16th September 2018. The tariff for subsequent years (i.e. FY 2019-20 and 2020-21) will be effective from 1st April of each Tariff Year, during the current control period.

21.1.2 The tariffs determined herein are ceiling rates, exclusive of taxes, if any.

By the Order and in the name of the Authority

31.8.18

(Ramendra Pratap Shukla)
Deputy Chief

To

Bangalore International Airport Limited
Alpha-2 Building
Kempegowda International Airport
(Through Shri Hari Marar, Managing Director)

22 List of Tables

23 List of Abbreviations

AAI	Airport Authority of India	**GST**	Goods and Services Tax
ACI	Airport Council International	**HIAL**	Hyderabad International Airport Limited
AERA/ Authority	Airports Economic Regulatory Authority of India	**IAR**	Industrial All Risks
AERAAT	Airports Economic Regulatory Authority Appellate Tribunal	**IATA**	International Air Transport Association
AICC	Asset in Course of Construction	**ICDS**	Income Computation and Disclosure Standards
AISATS	Air India SATS Airport Services Pvt Ltd	**ICT**	Information Communication Technology
AOC	Airline Operators Committee	**IDD**	Infrastructure Development Department
AOCC	Airport Operation Control Centre	**IOCL**	Indian Oil Corporation Limited
AOD	Airport Opening Date	**IOSL**	Indian Oil Sky tanking Private Limited
APAO	Association of Private Airport Operators	**IRA**	Independent Regulatory Authority
ARFF	Airfield Rescue Fire Fighting	**ITP**	Into Plane Operations
ARR	Aggregate Revenue Requirement	**KIA**	Kempegowda International Airport
ASQ	Airport Service Quality	**KSIIDC**	Karnataka State Industrial and Infrastructure Development Corporation
ATM	Air Traffic Management	**LLA**	Land Lease Agreement
ATP	Annual Tariff Proposal	**LLD**	Land Lease Deed
AUCC	Airport Users' Consultative Committee	**Menzies**	Menzies Aviation Bobba (Bangalore) Private Limited
B.PAC	Banagalore Political Action Committee	**MAG**	Minimum Annual Guarantee
Ba	Asset Beta	**MAT**	Minimum Alternate Tax
BAHL	Bangalore Airport Hotels Limited	**MoCA**	Ministry of Civil Aviation
BAOA	Business Aircraft Operators Association	**MPPA**	Million Passenger Per Annum
BIAAPA	Bangalore Airport Area Planning Authority	**MYTO - CP1**	Multi Year Tariff Order - First Control Period
BIAL	Bangalore International Airport	**MYTP**	Multi Year Tariff Proposal
BIM	Business Information Modelling	**NAR**	Non Aeronautical Revenue
BIR	Business Interruption Risk	**NCAP**	National Civil Aviation Policy 2016
BLR	Bengaluru	**NSPR**	New South Parallel Runway
BMRCL	Bangalore Metro Rail Corporation Limited	**O&M**	Operation & Maintenance
BMRDA	Bengaluru Metropolitan Region Development Authority	**OPEX**	Operating Expenditure
BOOT	Build, Own, Operate and Transfer	**PPP**	Public Private Participation / Private Public Partnership
BPCL	Bharat Petroleum Corporation Limited	**QoS**	Quality of Service
BSSPL	Bharat Stars Services Pvt limited	**RAB**	Regulatory Asset Base
CA	Concession Agreement	**RET**	Rapid-exit taxiway
CAPM	Capital Asset Pricing Model	**Rf**	Risk Free rate
CCS	Consumer Care Society	**SFG**	Strategic Finance Group
CGF	Cargo, Ground handling and Fuel farm	**SHA**	Shareholders Agreement
CIAL	Cochin International Airport Limited	**SPRH**	Service Provider Right Holder Agreement
CIC	Common Infrastructure Charges	**Siemens**	Siemens Project Ventures GMBH
CNS	Communication, Navigation and Surveillance	**SRT**	Shared Revenue Till
CP	Consultation Paper	**SS**	State Support
DIAL	Delhi International Airport Limited	**SSA**	State Support Agreement
ECB	External Commercial Borrowings	**T2**	Terminal 2
EIL	Engineers India Limited	**TDSAT**	Telecom Dispute Settlement and Appellate Tribunal
EMS	Environment Management System	**UDF**	User Development Fee
ERP	Equity Risk Premium	**UK CAA**	UK Civil Aviation Authority
Fairfax	Fairfax Financial Holdings Limited	**VTP**	Variable Tariff Plan
FRoR	Fair Rate of Return	**WCT**	Works Contract Tax
GoI	Government of India	**YPP**	Yield Per Passenger
GoK	Government of Karnataka		

भारतीय विमानपत्तन आर्थिक विनियामक प्राधिकरण
Airports Economic Regulatory Authority of India
सत्यमेव जयते

Annexure - I

Schedule of Airport Charges

RATE CARD FOR AERONAUTICAL SERVICES EFFECTIVE FROM 16TH SEPTEMBER 2018 UP TO 31ST MARCH 2021

सत्यमेव जयते

LANDING, PARKING & HOUSING CHARGES

General:-

1. Weight of an aircraft means MTOW in MT (1000kg) as indicated in the certificate of airworthiness
2. Charges shall be calculated on the basis of nearest MT(i.e1000 kg)

a) LANDING CHARGES-

Applicable Rates from 00:00 hrs (IST) of 16th Sep 2018 to 31st March 2019

Weight of Aircraft	International Flight	Other than International Flight
Upto 100 MT	Rs. 260.00per MT	Rs. 132.00 per MT
Above 100 MT	Rs. 26000/- +Rs. 350.00 per MT in excess of 100MT	Rs. 13200/- +Rs. 178.00 per MT in excess of 100MT

Applicable Rates from 1st Apr 2019 to 31st March 2020

Weight of Aircraft	International Flight	Other than International Flight
Upto 100 MT	Rs. 270.00per MT	Rs. 137.00 per MT
Above 100 MT	Rs. 27000/- +Rs. 364.00 per MT in excess of 100MT	Rs. 13700/- +Rs. 185.00 per MT in excess of 100MT

Applicable Rates from 1st Apr 2020 to 31st March 2021

Weight of Aircraft	International Flight	Other than International Flight
Upto 100 MT	Rs. 281.00 per MT	Rs. 142.00 per MT
Above100 MT	Rs. 28100/- +Rs. 378.00 per MT in excess of 100MT	Rs. 14200/- +Rs. 192.00 per MT in excess of 100MT

Note:

1. Scheduled domestic Aircraft which are less than 80 seater are exempt from paying Landing charges.

2. Non-scheduled flights - A minimum fee of Rs. 5,000/- shall be charged per single landing for all types aircraft flights, helicopters flights including but not limited to domestic landing, international and general aviation landing.

b) PARKING& HOUSING CHARGES-

Applicable Rates from 00:00 hrs (IST) of 16thSep 2018 to 31st March 2021

Weight of Aircraft	Parking charges	Housing charges
Upto 100MT	Rs. 4.00 per hour per MT	Rs. 7.00 per hour perMT
Above100MT	Rs. 400/- +Rs. 5.00per MT per hour in excess of 100 MT	Rs. 700/- +Rs. 9.00 per MT per hour in excess of 100 MT

Note:

1. 2 hours of free parking period is allowed on all stands, next two hours parking charges will be applicable & thereafter housing charges will be applicable.
2. Parking & housing time will be calculated based on ONBLOCK and OFFBLOCK time as recorded at Airport Operations Control Centre (AOCC).
3. For calculating chargeable parking & housing time, part of an hour shall be rounded off to the next hour.

Exemption in Landing and Parking Charges-

1. Military aircraft (Government of India) including para-military forces such as BSF, Coast Guard etc. are also exempted from parking charges.
2. Operators of International flights from airports other than those declared as international airports to pay Landing, Parking & housing charges at the current rates applicable to international airports for such international flights.
3. Domestic legs of international routes of Indian operators to be treated as domestic flights as far as landing charges are concerned, irrespective of the flight numbers assigned to such flights.

USER DEVELOPMENT FEE (UDF)

Applicable Rates from 00:00 hrs (IST) of 16thSep 2018 to 31st March 2021

Type of Passenger	For ticket issued on or after 16.09.2018	For ticket issued on or after 01.04.2019	For ticket issued on or after 01.04.2020
International embarking passenger	Rs. 400 per Pax	Rs. 558 per Pax	Rs. 716 per Pax
Domestic embarking passenger	Rs. 100 per Pax	Rs. 139 per Pax	Rs. 179 per Pax

General:-

1. User Development Fee is payable to Bangalore International Airport Ltd.

2. Collection charges on User Development Fee (UDF) -
   The domestic and international Scheduled Air Transport Service (Passenger) operator will be entitled for Collection Charges of Rs.5/- (Rupees five only) per embarking passenger, provided, BIAL receives the invoiced UDF amount within the due date mentioned in the invoice. The collection charges so payable to the operator will be adjusted by credit note during the subsequent billing cycle. However, no collection charges will be payable by BIAL to the operator, if the operator fails to make the UDF invoice payment within the aforesaid applicable time limit/credit period.

3. For calculating the UDF in foreign currency, the RBI reference conversion rate as on the last day of the previous month for tickets issued in the 1st fortnight and rate as on 15th of the month for tickets issued in the 2nd fortnight shall be adopted.

4. The following categories of persons are exempted from levy of UDF:

   a. Children (Under age of 2 years)
   b. Holders of Diplomatic Passport,
   c. Airlines crew on duty including sky marshals & airline crew on board for the particular flight only (this would not include Dead Head Crew, or ground personnel),
   d. Persons travelling on official duty on aircraft operated by Indian Armed Forces.
   e. Persons travelling on official duty for Untied Nations Peace Keeping Missions.
   f. Transit/transfer passengers (this exemption may be granted to all the passengers transiting upto 24 hrs "A passenger is treated in transit only if onward travel journey is within 24 hrs from arrival into airport and is part of the same ticket, in case 2 separate tickets are issued it would not be treated as transit passenger").
   g. Passengers departing from the Indian airports due to involuntary re-routing i.e. technical problems or weather conditions

FUEL THROUGHPUT CHARGE (Airport Operator Fees)

Applicable Rates from 00:00 hrs (IST) of 16th Sep 2018 to 31st March 2021

Charges per Kilolitre of Fuel	Rs. 1,067.00

Note:
1. Concessioned to Fuel Farm Operator. The charges mentioned above will be collected as Airport Operator Fees from Fuel Farm Operator as part of total charges that are collected by Fuel Farm Operator from its customers.

CUSS/CUTE/BRS CHARGE*

Applicable Rates on all tickets issued from 00:00 hrs (IST) of 16th Sep 2018 to 31st March 2021

Charges per dpax	USD ($) 1.00

* Concessioned to Concessionaire on revenue share model. The charges mentioned above will be collected by Concessionaire from Airlines.

For converting the US$ in INR, the RBI reference conversion rate as on the last day of the previous month for tickets issued in the 1st fortnight and rate as on 15th of the month for tickets issued in the 2nd fortnight shall be adopted.

GENERAL CONDITION

1. Flight Operating under Regional Connectivity Scheme will be completely exempted from charges as per Order No. 20/2016-17 dated 31.03.2017 of the Authority from the date the scheme is operationalized by GoI.

2. All the above Airport Charges and Fee are subject to applicable taxes.

VARIABLE TARIFF PLAN (VTP):

Detailed VTP submitted by BIAL is enclosed as annexure 'II'. BIAL can charge the discounted rate as per VTP, however, due to capacity constraints prevailing at the airport, the Authority decides to consider discounts only for flights operating in red eye period, new international routes for passenger flights and new cargo freighters only while truing up the actuals.

Annexure - II

Variable Tariff Plan

Scheduled Domestic & International Passenger and Cargo Airlines

BIAL's Proposal for improved passenger traffic and sustained operational excellence

September 2018

Variable Tariff Plan:

Under the broad based six categories listed below, BIAL proposes a Variable Tariff Plan (VTP) that will be limited to specific categories only and applicable to Scheduled Domestic & International Passenger and Cargo Airlines.

Definition of various Categories:

1. **Existing Flights:** Flights currently operating at Bangalore

2. **Additional Frequency:** An additional flight introduced on an existing route by any airline.
   E.g. Airline XY operates 4 frequencies between Bangalore – Mumbai and now introduces a 5th frequency on that route.

3. **New Flight:** A flight introduced to a new destination (unserved by the airline for the previous twelve months), that is already in service by another airline from Bangalore.

   E.g. Airline XY (existing) or Airline AB (new) introduces a flight on Bangalore – Trivandrum, which is already served by another domestic carrier(s).

4. **New Route:** A flight to a new destination that is currently unserved from Bangalore by any airline (unserved by the qualifying airline for the previous twelve months).
   E.g. Airline XY (existing) or Airline AB (new) introduces a new route Bangalore – Phuket, which is currently unserved from Bangalore by any airline.

5. **Aircraft Up gauge:** This incentive will be applicable to the International airlines who will be up gauging their aircraft on the existing route

E.g. Airline XY (existing) up gauges its aircraft to a wide body aircraft from a narrow body aircraft on an existing route like Bangalore – Dubai (for e.g. an airline operating A320/B737/A321 or similar type of aircraft up-gauge to A330/B787/B777 or equivalent or higher will be eligible to avail this incentive)

6. **New Cargo Airline:** This incentive will be applicable for a new freighter airline operating to Bangalore

Tariff Card:

VTP - Passenger

Type	Rack Rate (*RR) per *MT in INR	Existing Flights	Exiting Flight Up-gauge	Additional Frequency	New Flight	New Route	
	FY 2018-19					Year 1	Year 2
Landing Charges						All Aircraft type	Code D & Above
Domestic Passenger Flights (Other than Non-Peak Operations)							
Rate per MTOW (for MTOW <= 100)	RR	RR	RR	RR	RR	0.75 * RR	RR
Rate per MTOW (for MTOW > 100)	RR	RR	RR	RR	RR	0.75 * RR	RR
Domestic Passenger Flights (Red Eye Period)							
Rate per MTOW (for MTOW <= 100)	RR	0.80 * RR	0.65 * RR	0.60 * RR	0.40 * RR	0.15 * RR	RR
Rate per MTOW (for MTOW > 100)	RR	0.80 * RR	0.65 * RR	0.60 * RR	0.40 * RR	0.15 * RR	RR
International Passenger Flights (National or International Carriers)							
Rate per MTOW (for MTOW <= 100)	RR	RR	RR	0.50 * RR	0.50 * RR	0.05 * RR	0.50 * RR
Rate per MTOW (for MTOW > 100)	RR	RR	0.75 * RR	0.25 * RR	0.25 * RR	0.05 * RR	0.50 * RR
Aircraft less than 80 Seats (ATRs / Q400s / E70s)							
Rate per Landing	0	0	0	0	0	0	0

VTP – Cargo

Type	Rack Rate (*RR) per *MT in INR	Additional Frequency	New Flight	New Airline to the Airport and/or New Route for the Airport	
	FY 2018-19			Year 1	Year 2
Landing					
Domestic Cargo Airlines					
Rate per MTOW (for MTOW <= 100)	RR	RR	RR	0.50 * RR	0.75 * RR
Rate per MTOW (for MTOW > 100)	RR	RR	RR	0.50 * RR	0.75 * RR
International Cargo Airlines					
Rate per MTOW (for MTOW <= 100)	RR	0.50 * RR	0.50 * RR	0.25 * RR	0.50 * RR
Rate per MTOW (for MTOW > 100)	RR	0.50 * RR	0.50 * RR	0.25 * RR	0.50 * RR

Explanation:

Red Eye Operations

- Airport Red Eye Hours are declared as between 0000 to 0430 hours (IST) for the current financial year. Airport red eye hours will be declared in December every year for the subsequent financial year (April to March)

- All existing domestic flights departing during the red eye hour(s) will be eligible for the red eye tariff defined in the tariff card.

- A flight will qualify for the red eye tariff in the VTP, if in every billing cycle at least 80% of its departures (Off-block time - AOBT) are in the airport declared red eye hours (tolerance of +/- 5 minutes).

E.g. Flight 1234 with a Scheduled Time of Departure (STD) 0200 hrs should have 80% or more of its off-block time (AOBT) between 0155 to 0205 hrs (airport declared red eye hours = 0000 to 0430 hrs).

The tariff as per published VTP shall apply until 31st March and thereafter from 1st April the tariff applicable shall be correspondingly adjusted at the same rate.

Eg 1: Domestic flight AB 1234, operating a new flight in the red-eye hour with a narrow body aircraft, commencing operations on 1st Oct 2018 will be eligible for the following rates:
01 OCT 2018 to 31MAR2019 Rs. 0.40 * RR per MT (where RR means Rack Rate for FY 2018-19 for all subsequent references)
01APR2019 to 30SEP2019 Rs. 0.40 * 3.9%(annual escalation in RR) * RR per MT

New Route

The tariff for new routes for domestic will be for a period of 12 months from the date of commencement. The tariff for new routes for international will be for a period of 12 months from the date of commencement. The VTP will be applicable for another 12-month period in case the flight is operated by Code D or higher type of aircraft

For Eg 2: International flight XY 567 with a wide body aircraft (Code D and Above), commencing operations on new route on 1st Oct 2018 will be eligible for the following rates:

01OCT2018 to 31MAR2019	Rs. 0.05 * RR per MT
01APR2019 to 30SEP2019	Rs. 0.05 * 3.9% * RR per MT
01OCT2019 to 31MAR2020	Rs. 0.50 * 3.9% * RR per MT
01APR2020 to 30SEP2020	Rs. 0.50 * 3.9% *3.9% * RR per MT

Eg 3: International flight XY 567 with a narrow body aircraft, commencing operations on new route on 1st Oct 2018 will be eligible for the following rates:

01OCT2018 to 31MAR2019	Rs. 0.05 * RR per MT
01APR2019 to 30SEP2019	Rs. 0.05 * 3.9% * RR per MT

Validity

- The tariff plan for international flights is valid for 12 - 24 months (as applicable) from the date of commencement of operation.

- The tariff plan for domestic flights is valid for 12 months from the date of commencement of operation.

General Information:

- No discount over and above the Variable Tariff Plan is applicable.

- The discounts are applicable only during the effective period of existing Variable tariff plan

- The aircraft categorization has been defined as per wingspan (Annex 14 ICAO)