

Consultation Paper No. 17/2014-15



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Airports Economic Regulatory Authority of India

**In the matter of Determination of Fuel Infrastructure Charges
submitted by Mumbai Aviation Fuel Farm Facility Private
Limited at CSI Airport, Mumbai for the first Control Period
(01.04.2014 – 31.03.2019)**

New Delhi: 19th February, 2015

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

1. The Mumbai Aviation Fuel Farm Facility Private Limited (MAFFFL), vide their letter dated 14.11.2014, has approached this Authority seeking interim tariff approval for Fuel Infrastructure charges (FIC) in respect of providing the Fuel Storage and Handling services at CSI Airport, Mumbai
2. Brief facts of the case are as under:
 - 2.1. Pursuant to the meeting of the National Facilitation Committee (NFC), at New Delhi on 09th March 2009 and Mumbai on 15th April 2009, chaired by Cabinet Secretary, GOI, aimed at resolving issues related to development of Chhatrapati Shivaji International Airport (CSIA) including the oil facilities at CSIA, it was decided that a joint venture company (JVC) would be constituted comprising of all the Oil Public Sector Undertakings (PSU) namely Indian Oil Corporation Limited (IOCL), Bharat Petroleum Corporation Limited (BPCL, Hindustan Petroleum Corporation Limited (HPCL) and Mumbai International Airport Private Limited (MIAL) for the purpose of managing the current aviation fuel facilities and creating an integrated fuel facility at CSIA on open access model. Based on the decisions taken in the aforesaid meeting, a MoU was executed between Oil PSUs and MIAL on 30th September 2010. The new integrated fuel facility is envisaged to be a crucial step towards airport development.
 - 2.2. In line with above, the JVC, Mumbai Aviation Fuel Farm Facility Private Limited (MAFFFL), will take over the current Fuel facilities and construct an integrated fuel farm along with necessary hydrants within a reasonable time. The License Agreement signed between MAFFFL and MIAL, for MAFFFL to operate the Integrated Facilities, is valid up to 2nd May 2036.
 - 2.3. MAFFFL has stated that currently all the Oil PSUs namely HPCL, BPCL and IOCL are operating from their respective facilities located at Sahar and Santacruz areas on the land provided by CSIA. The planned integrated Fuel Farm Facility will operate from a single point (i.e., at the site of the existing facilities of IOCL and HPCL near the Domestic terminal 1A, Santacruz) to bring in the efficiencies of the integrated operations. MAFFFL has stated that the existing facilities acquired from the Oil PSUs will be disposed-off once the Integrated Fuel Farm is operational.
 - 2.4. MAFFFL has also submitted that they have received the approval of the Competition Commission of India (CCI) on the proposed transaction vide order dated 29th September 2014.
3. Transaction Structure
 - 3.1. MAFFFL has submitted that after signing of the MOU, an Executive Committee (EC) was constituted comprising of representatives of all the three Oil PSUs and MIAL, which was tasked to conclude all the agreements between MIAL, Oil PSUs and MAFFFL and also decide on the various steps to operationalize MAFFFL. The Share Purchase and the Share Holders Agreements between the four shareholders (IOCL, BPCL, HPCL and MIAL) was signed on 6th March 2014.
 - 3.2. MAFFFL has submitted that MIAL is granting MAFFFL the rights to design, develop, finance, operate and manage the Fuel Farm and to contract with third parties to undertake the functions of MAFFFL at CSIA by way of License Agreement. Further,

MAFFFL has stated that the existing aviation fuel assets including the hydrant system of all the parties, at CSIA will be transferred to MAFFFL by way of Transfer Deed.

- 3.3. MAFFFL has stated that as per the MoU, the transfer of all the rights, titles and interests in all the assets comprising the existing facilities from Oil PSUs and MIAL to MAFFFL will be done for a consideration equivalent to the replacement cost less depreciation of the existing facilities as agreed to between the shareholders.
 - 3.4. MAFFFL has stated that the ownership of pipelines connecting the refineries to aviation fuelling stations of the Oil PSUs integrated facility shall remain with the respective oil companies as per para 1.2.15 of the MoU.
 - 3.5. As agreed to by the EC members the replacement value of the current fuel farm facilities of Oil PSU's at CSIA, Mumbai was ascertained by Engineers India Ltd (EIL).
 - 3.6. The replacement value as ascertained by EIL was depreciated based on life of facility, to arrive at the compensation to be paid by the MAFFFL to the PSUs.
 - 3.7. It was also agreed that MAFFFL will reimburse cost incurred by MIAL till date, pertaining to fuel hydrant system at CSI Airport. This was envisaged under the MOU as MIAL had to commission the integrated terminal based on certain timeline and could not have waited for MAFFFL to operationalise and start the project.
 - 3.8. MAFFFL has further submitted that based on an agreement between the EC members, Ernst &Young (E&Y) was engaged to prepare a feasibility report for the integrated fuel facility which included the computation of the Fuel Infrastructure Charge (FIC), based on this Authority's regulatory approach.
 - 3.9. Exercising its rights under the license agreement (signed with MIAL), the EC in a meeting dated 3rd May 2013 decided that MAFFFL, through a public tender will appoint a Fuel Farm Operator for managing the Fuel Farm Operations and two independent Into Plane (ITP) service providers for managing the ITP operations at CSIA. MAFFFL subsequently floated the tender for appointment of ITP Operators on 10th April 2014.
 - 3.10. Bharat Stars Services Private Limited (BSSPL) and Indian Oil Skytanking Limited (IOSL) were selected as the two parties for providing ITP Operations at CSIA for a period of 10 years.
 - 3.11. As regards the Fuel farm operator, MAFFFL has stated that Public tender for selection of the Operator been floated on 18th to be finalized in December 2014. The period of contract for the fuel farm operations shall be for a period of 5 years.
4. Facility details
- 4.1. MAFFFL has submitted that upon taking over the assets from the Oil PSUs, MAFFFL will be responsible for uninterrupted operations at the existing facilities situated at different areas in Mumbai Airport. Further, they will also simultaneously start the construction of the Integrated Fuel Farm at the identified site near the existing facilities of IOCL and HPCL near the domestic terminal 1A, Santacruz.
 - 4.2. MAFFFL has stated that the Integrated Fuel Farm will be built on an area of approximately 30,000 square meters and will have a static storage capacity of

47,500 kilolitres of ATF. The facility will be ready for Operations by the end of FY 2018. The existing facilities acquired from the Oil PSUs will be disposed-off once the Integrated Fuel Farm is operational.

5. Revenue and Cost:

- 5.1. As regards Revenues and costs of the subject facility, MAFFFL has submitted that they will charge the Fuel Infrastructure Charge from the fuel suppliers as approved by this Authority.
- 5.2. Additionally, the suppliers will pay the ITP fee as approved by this Authority to the third-party ITP operators appointed by MAFFFL.
- 5.3. MAFFFL will also get a revenue share by way of sub-concession fee from the third-party ITP operators.
- 5.4. MAFFFL has stated that in accordance with the MoU the license fee/ lease rent for the land underlying the existing facilities transferred to MAFFFL, shall be paid by MAFFFL to MIAL.
- 5.5. Further, all that other operating costs associated with the Fuel Farm operations will be borne by MAFFFL.

6. Tariff Determination

- 6.1. The supply of fuel for aircrafts at a major airport is an aeronautical service as per the AER Act, 2008. MAFFFL has accordingly submitted the instant proposal to this Authority seeking approval of the Fuel Infrastructure charges for services being rendered from their fuel farm facility.
 - 6.2. MAFFFL have for the purpose of the MYTP/ATP filing worked out the methodology of determining/calculating Aggregate revenue Requirement (ARR) as prescribed in the Authority's Airports Economic Regulatory Authority of India (Terms and Conditions for Determination of Tariff for Cargo Facility, Ground handling and Supply of Fuel to the Aircraft) Guidelines 2011 [CGF Guidelines].
 - 6.3. MAFFFL has submitted that based on the Regulatory Building Blocks approach in the CGF Guidelines, they have arrived at a Fuel Infrastructure Charge of Rs.826/KL of fuel stored and handled in the facility (as computed in the feasibility study by E&Y).
7. MAFFFL in their letter dated 14.11.2014 has submitted that they are expected to commence commercial operations by 24th November 2014 and will seek the financial closure for the project. MAFFFL had vide the above letter requested this Authority to grant interim approval for an interim tariff of Rs.826/KL for providing the Fuel Storage and Handling services at the Facility till the final order by AERA is received on MAFFFL's MYTP, which would enable MAFFFL to address the working capital issues, achieve the financial closure one would also enable MAFFFL to provide uninterrupted services to its customers. MAFFFL also submitted that any changes in the final tariff as per the AERA final order shall be complied with and any under-recovery or over-recovery shall be adjusted subsequently.
8. MAFFFL also submitted that stakeholder consultations with various customers for their services and tariff will be held and will be incorporated in the detailed MYTP that shall be submitted shortly to the Authority for its approval.

9. Further, MAFFFL vide their submission dated 12.12.2014 reiterated their request for the interim tariff approval stating that they are ready to start the commercial operations and awaiting the approval of an interim tariff of Rs.826/KL for providing the Fuel Storage and Handling services at the Facility, till the final order by AERA is received on MAFFFL's MYTP. MAFFFL has further submitted that :
- 9.1. The revenues are required by MAFFFL to start the operations and the only source of revenue to MAFFFL is by way of the fuel infrastructure charges to be collected from the Suppliers. MAFFFL stated that with the transfer of existing facilities by the Oil PSU to MAFFFL, it shall be the responsibility of MAFFFL to operate the same so that the airport operations are not affected.
- 9.2. MAFFFL is ready to commence operations and starting of operations with interim tariff will help MAFFFL in overcoming the working capital requirements and financial closure of the project.
- 9.3. MAFFFL reiterated their submission regarding the approval by the Competition Commission of India (CCI) to the combination.
10. Further, MAFFFL also submitted that for the financial closure of the project, a lead arranger has already been appointed by MAFFFL and that the MYTP, under preparation shall be submitted for Authority's consideration after the stakeholder consultation, before end of December 2014.
11. Further, vide their submission dated 19.12.2014, MAFFFL reiterated their request for an interim approval of the tariffs and apprised the Authority regarding the stakeholder Consultation held on 17.12.2014 with the users of the facility (PSU Oil Marketing Companies) wherein inter alia, the Consultation on the interim tariff for fuel infrastructure charges (FIC) of INR 826/KL was also discussed.
- 11.1. It is noted from the minutes of the stakeholder consultation that MAFFFL sought an interim approval of the tariff of Rs.826/KL, calculated by E&Y based on the AERA's regulatory building block approach and the same was subsequently discussed and approved by the respective boards of all the Oil PSUs. It is also noted from the Minutes that MAFFFL has informed the stakeholders that it is working on the revised calculations to arrive at a final price for FIC and are preparing the MYTP to be submitted to AERA and that MAFFFL will organize another stakeholder consultation process to discuss the revised price proposed in their MYTP.
- 11.2. The stakeholders in the Consultation Meeting (Oil PSUs) have stated that any rate approval (apart from the already approved FIC of Rs. 826/KL) would require a separate approval from respective managements of the Oil PSUs. Further, the stakeholders have also stated that the rate arrived as per the E&Y feasibility report for FIC has already been considered and approved by the respective boards and presently the services at this rate are acceptable to the Oil PSUs. They also stated that on submission of the revised tariff Oil PSUs will seek relevant justifications for the revision and a separate approval for the same shall be sought from respective managements.
- 11.3. MAFFFL in response to the stakeholders comments has submitted that it will provide the revised cost with detailed justification at the time of user consultation for MYTP and that the Oil PSUs to attempt to obtain the management approval for

the revised tariff within a week's time, which will enable MAFFFL to obtain requisite approval from AERA on the final tariff to ensure timely and uninterrupted fuelling operations at CSIA

12. MAFFFL has also furnished excerpts from their response to the CCI's query on cost of operations of Oil PSUs. MAFFFL has in their response to CCI's query indicated that the average cost of operation for the three Oil PSUs at Mumbai Airport for the FY 2013-13 is Rs.1004.10 /KL and for FY 2013-14 is Rs.1054.30. MAFFFL have in their response to CCI have also submitted that *"....the estimated cost for fuel infrastructure charges is approximately Rs.826 / KL and that of ITP services approximately Rs. 208/KL. While these charges are regulated by AERA, the estimated average cost for each of the PSUs will be Rs. 1034/KL. Therefore, the prior cost of operation is higher by at least Rs. 14 per KL than the cost post creation of the integrated fuel farm facilities in Mumbai Airport, thereby evidencing significant cost savings."* MAFFFL have further submitted that:
 - 12.1. Oil PSUs have advised for the fuel supplies made at their locations, with captive infrastructure, like the present operations in Mumbai, the cost of operations ITP and Fuel farm cannot be segregated as the resources for all the operations were clubbed and not segregated and the billing done by the Oil PSUs to the customers includes the cost of all the services required for supply and delivering the fuel into the aircraft.
 - 12.2. The above mentioned average cost of operations of the Oil PSU's, submitted to CCI is purely the cost of operations and does not include the overall cost of infrastructure and other overheads. Hence under the new system, wherein the ITP services and fuel farm services are segregated and regulated, would lead to increased cost savings.
13. MAFFPL also made a presentation on 09.01.2015 before the Authority which included representatives from MAFFPL, MIAL, IOSL and BSSPL, wherein they covered key components of the Regulatory building blocks, MAFFPL's assumptions and justification for the same and details of User Consultation etc. MAFFFL also submitted their MYTP and ATP during the course of the presentation vide their letter dated MAFFFL/AERA/41 dated 09.01.2015. In the ATP, MAFFFL have approval of the Fuel Infrastructure Charge of Rs.828/KL with the rates being effective 12th January, 2015 and valid upto 31.03.2016.
14. MAFFFL vide their submission dated 12.01.2015, also submitted additional information based on the observations made by the Authority during the presentation, as under:
 - 14.1. **On the Treatment of various charges :** MAFFFL has submitted that the stamp duty and registration fee for the License Agreement and the ITP Agreements, has been considered under O&M charges as these are not related to the capex activities. Further under O&M the classification of the expenses have been made under the different heads given as per the AERA guidelines viz., payroll, administration and general, repair and maintenance, utilities and outsourcing and others. MAFFFL also has submitted that that the stamp duty and registration charges on transfer deed are charged to project cost, based on the accounting opinion of KPMG, a copy of which has been furnished by MAFFFL separately.
 - 14.2. **Dead stock :** In respect of dead stock, MAFFFL have submitted that the dead stock held by MAFFFL is not held in its ordinary course of business since MAFFFL's

business is to provide storage space for storing fuels and not to buy or sell fuel. Further, they have also submitted that the dead stock is not consumed in the services related to storage of fuel, since, this is the minimum level of material which is required to be held at all times in the oil storage tank in order it to be able to make it operational throughout the life of the storage tank and provide the required storage service and that there is no quantity variation during the life of project. MAFFFL have also enclosed KPMG's opinion the treatment of dead stock.

- 14.3. **Securitization of assets with Lenders:** MAFFFL has submitted that as per the license agreement between MIAL and MAFFFL, which flows from the OMDA, securitization of assets is not permissible. They have submitted that MIAL also has given the charge on the revenues and not the assets.
- 14.4. **Amortization of pre-formation costs:** MAFFFL have submitted that the Guidance Note on Treatment of Expenditure, During Construction issued by the Institute of Chartered Accountants of India (ICAI) had permitted the capitalization and amortization of such start-up or preliminary expenses. However, the ICAI has withdrawn this guidance note in 2008. Accordingly, such preliminary expenses including startup costs are expensed when incurred. MAFFFL has also enclosed an opinion from KPMG on same.
- 14.5. **Impact of the fuel infrastructure and ITP charges the airlines:** MAFFFL has submitted that the Oil PSUs have advised, for the fuel supplies made at their locations, with captive infrastructure, like the present operations in Mumbai, the cost of operations ITP and Fuel farm cannot be segregated as the resources for all the operations are clubbed and not segregated. Accordingly the billing done by the Oil PSUs to the customers (i.e., the Airlines) , includes the cost of all the services required for supply and delivering the fuel into the aircraft and the above said charges are not separately indicated. MAFFFL has furnished copies of the invoices of Oil PSU, presently being issued at Mumbai Airport. Further, MAFFFL has also submitted that the fuel infrastructure charges including the ITP service fee shall not be additional charges over and above the present airfield price and shall be part of the airfield price being charged by the Oil PSU to the airlines. In their submission to CCI, MAFFFL has stated that the average cost of operation by the Oil PSU's for the year 2013-14 was advised at Rs 1054/KL. Against the same the cost of operation after takeover by MAFFFL shall be about Rs 828/KL for the Fuel Infrastructure charges and Rs 198/KL for the ITP charges, totaling about Rs1026/KL. MAFFFL has submitted that the above mentioned average cost of operations of the Oil PSU's (i.e., Rs.1054/KL), submitted to CCI is purely the cost of operations and does not include the overall cost of infrastructure and other overheads whereas the charges of MAFFFL is inclusive of same. As per MAFFFL, with the commencement of operations by them, wherein the ITP services and fuel farm services are segregated and regulated, there would be considerable savings in the overall cost of operations.
- 14.6. **Reasonableness :** In respect of the reasonableness of the JVC arrangement and the agreement with the users, MAFFFL has submitted that the JVC has been cleared by CCI after being assured of not creating any adverse effect on the competition and all the agreements will be similar to all the users and will be in public domain and that the rates charged shall be approved by AERA and no discrimination between the

users shall be made. Further, MAFFFL has submitted that the rates proposed have been agreed to by the present users i.e., the OIL PSUs. MAFFFL have submitted that these rates as such are not being loaded by the suppliers additional to the airfield price. MAFFFL has submitted that *“View all above, this proposal be kindly considered under the light touch approach.”*

- 14.7. **User consultation** – MAFFFL has submitted that their business dealings are limited only with the Suppliers and the stakeholder consultation with the existing suppliers has been done and that the rate offered to the Oil PSU of Rs 828/KL, is in line with the rate presented to their Boards, for approval.
- 14.8. **Segregation of capital and CWIP** – MAFFFL has submitted that the Segregation of capital and CWIP has been done and the capital expenditure for a 10 year period has also been provided.
- 14.9. Additional documents regarding compensation to existing assets of Oil PSU : In support of their additional clarifications and request to consider the proposal under the light touch approach, MAFFFL has submitted the various opinions from its consultants as also the transfer deed to be signed regarding the actual costs being paid to the Oil PSU's for existing assets, which will be reflected in the books of MAFFFL, for which the stamp duty on same has already been paid.
15. Further, vide their letter dated 16.01.2015, MAFFFL has conveyed that all the agreements including the transfer deed has been registered on 13.01.2015 and the aviation fuel operations have been taken over by MAFFFL from the start of 0000 hours of 14.1.2015. MAFFFL has further stated that *“While MAFFFL ensures its commitment to uninterrupted fuelling operations at CSIA, with an approved tariff resulting in cash inflows will help MAFFFL in having smooth operations..... To enable MAFFFL to have operating cash flows and achieve the financial closure for the project, MAFFFL sincerely requests for approval (provisional or final) of the tariff at the earliest.”*
16. Further, vide their submission dated 19.01.2015, MAFFFL has submitted that the Transfer deed, License Agreement, ITP Agreement, Interim operations agreement between the parties and MAFFFL has been signed on 13.01.2015 and with same the existing facilities of Oil PSU 's and MIAL has been transferred to MAFFFL and started the fuel form operations effective 0000 hrs of 14.1.2015. Further, they have also submitted that with the above transfer of the facilities and commencement of operations the expenditure with regards to the Fuel farm have to be arranged by MAFFFL only.
- 16.1. Further, MAFFFL also submitted that they shall appoint a Fuel farm operator, selected by way of competitive bidding through public tender. The L1 party emerged by way of public tender is BPCL and order on same shall be placed with the approval of the Board scheduled to meet on 29.01.2015. MAFFFL has stated that after the letter of award, BPCL is expected to obtain the necessary approvals from DGCA etc., and commence the independent operations by end of March 2015.
- 16.2. MAFFFL has submitted that until such time the facilities shall be operated by the existing Oil PSUs. MAFFFL shall pay a charge to these PSUs towards the operations only and all the charges related to the location like the land rentals, property tax etc., shall be borne by MAFFFL. MAFFFL has submitted that they have entered into an interim tripartite agreement, before the commencement of the operations,

between MAFFFL as the facility owner, the PSU Oil companies, as suppliers and as the fuel farm operators (of their respective locations). MAFFFL shall charge the suppliers the fuel infra charges as per the rates approved by AERA. They have further informed that the charges will be raised after the approval of rates by AERA. MAFFFL has furnished a copy of the draft Interim Tripartite Fuel Farm Operator & Supplier Agreement along with the MYTP submissions.

- 16.3. Further, MAFFFL has submitted that it requires urgent funds for statutory payments; fuel farm operator charges; license fee and rentals; day to day administrative expenses; Salaries and wages etc. They have submitted that in the absence of approved tariff, MAFFFL is unable to have financial closure and raise the funds to ensure smooth and uninterrupted operations of the fuelling operations at CSIA.
- 16.4. With regards to the reasonableness of the user agreements, MAFFFL has submitted as under:

- "a. All the Supplier agreements will be same for all the Suppliers and will be in public domain. The points to be considered in the supplier agreement, as included in the tender document is enclosed.*
- b. The rates charges shall be approved by AERA and no discrimination of rates between users shall be made*
- c. The rates proposed have been agreed to by the present users. The consultation paper has already been submitted with the MYTP proposal. (Annexure 9, page 241-245)*
- d. The rate has been determined basis the building blocks of AERA. The submissions have also been made along with the MYTP proposal.*
- e. It is also to inform that as per the response to the CCI's query, the average cost of operation for BPCL/HPCL/IOCL for the year 2013- 14 is about Rs 1054.30/KL. In relation to MAFFFL, the same works out to Rs 828/KL for the fuel infrastructure charges (proposed) and that of ITP charges of Rs 198/KL. totaling Rs 1026/KL.*

View all above, we once again request for an immediate approval of the proposed tariffs. This will enable MAFFFL to achieve financial closure at the earliest and to ensure uninterrupted fuelling operations at CSIA."

- 16.5. The submissions made by MAFFFL, including the MYTP and ATP submissions are collectively placed at **Annexure-I**.

17. The Authority considered the request for tariff approval for MAFFPL for providing fuel services at CSI Airport and with reference Clause 3.5 of the Agreement between IOCL and Gulf Air forwarded by MAFFPL sought the following additional information:

- i. Breakup of current ATF charges indicating the component of ITP and Infrastructure charges.
- ii. Are other Oil Companies utilizing the current facility of IOCL. If so, the applicable charges with breakup of component rate of ITP & Infrastructure charges.

18. MAFFFL, vide email dated 13.02.2015 furnished their clarifications as under:

This is further to your letter dated 11th February, 2015 on subject and the clarification with regards to the sample agreement between, IOCL and Gulf Air, clause 3.5 relating to Into-Plane Charges (ITP), it is to inform the following:

1. The present invoicing to some of their International airline customers by Oil PSUs includes the cost of ATF price (MOPAG+ Fixed Differential) and Airport throughput fees. In the past, the Oil PSUs used their captive ITP infrastructure (Refuellers/Hydrant Dispensers) and were themselves responsible for provision of the services. The ITP charges were not separately indicated in the invoice.

2. At Mumbai, prior to start of the operations by MAFFFL, the Oil PSU's were utilizing their captive ITP infrastructure consisting of Refuellers and Dispensers to service individual customers. The ITP infrastructure (Refuellers/Hydrant Dispensers) were not shared amongst each other.

Further to above, with regards to the Hydrant Infrastructure, we wish to inform the following;

- *Domestic Airport,*
 - *The system, owned by HPCL was commissioned in 1998.*
 - *The system covers only part of the bays.*
 - *While HPCL was using the system fully, IOCL and BPCL were fuelling the aircrafts using their captive Refuellers.*
 - *As and when IOCL and BPCL utilized the HPCL owned hydrant Infrastructure for fuelling the aircraft using their captive dispensers, HPCL is raising a charge of Rs 780/KL for same.*
- *International Airport,*
 - *The system, owned by IOCL was commissioned in 1982.*
 - *BPCL & HPCL while utilizing the IOCL owned Hydrant system with its own captive dispensers, IOCL is raising a charge of Rs 640/KL for same.*

We once again request for an immediate approval of the proposed tariffs. This will enable MAFFFL to achieve financial closure at the earliest and to ensure uninterrupted fuelling operations at CSIA.

19. The Authority has considered the submissions and additional information furnished by MAFFFL in this regard. The Authority's Airports Economic Regulatory Authority of India (Terms and Conditions for Determination of Tariff for Cargo Facility, Ground handling and Supply of Fuel to the Aircraft) Guidelines 2011, i.e., CGF Guidelines stipulate that it shall follow a three stage process for determining its approach to the regulation of a regulated service –

- (i) Materiality Assessment;
 - (ii) Competition Assessment;
 - (iii) Assessment of reasonableness of the User Agreements between the service providers and the users of the regulated services.
- 19.1. In respect of Regulated Service(s) provided for the supply of fuel to the aircraft, the Authority considers that materiality of the service is linked to the fuel off take at the major airport. The materiality shall be assessed based on fuel off take at the major airport as a percentage of sum total of fuel off take at all major airports, according to Clause 4.1 of the CGF Guidelines.
- 19.2. MAFFFL have in their submissions stated that the service of fuel supply to aircrafts (fuel farm) being provided by MAFFFL at CSI Airport, Mumbai has a materiality index of 31.9 %. Since the materiality index is more than 5% the service is deemed as “material” as per the CGF Guidelines.
- 19.3. The CGF Guidelines provide that where a Regulated Service is being provided at a major airport by two or more Service Provider(s), it shall be deemed “competitive” at that airport and if such service is provided by less than two Service Provider(s), it shall be deemed “not competitive”. The CGF Guidelines also provide that the Authority may in its discretion consider such other additional evidence regarding reasonableness of competition as it may deem fit and the determination of number of Service Provider(s) at a major airport shall include the Airport Operator, if the Airport Operator is also providing Regulated Service(s) at that major airport.
- 19.4. In the instant case MAFFFL is sole provider of infrastructure service for supply of fuel to aircrafts at CSI Airport, Mumbai and there is no competitor. Since the service is provided by less than two Service Provider(s), the service is deemed “not competitive”.
- 19.5. MAFFFL have in their application submitted that “However, while there is no other Fuel Farm Facility at CSIA, MAFFFL by nature of its business cannot have any monopolistic advantage as it is committed to provide Fuel Storage Service to all oil suppliers on an open access basis.”
- 19.6. The Authority in Order No.12/2010-11 dated 10.01.2011 had stated that it would adopt a light touch approach in respect of a situation where the service is ‘material but competitive’.
- 19.7. Based on the review at Stage 1 and Stage 2, the regulated service being provided by MAFFFL is “material and not competitive”. In Stage 3, the Authority shall assess the reasonableness of existing User Agreements(s). The Guidelines provide that where such service is “material and not competitive” and the Authority is assured of the reasonableness of the existing User Agreement(s), the Authority shall determine Tariff(s) for Service Provider(s) based on a light touch approach for the duration of the Control Period. As per Clause 6 of the Guidelines, the Authority shall consider the existing User Agreements as reasonable provided that:
- 6.1.1 The Service Provider submits existing User Agreement(s) between the Service Provider and all the User(s) of the Regulated Service(s), clearly indicating the tariff(s)*

that are agreed to between the Service Provider and the User(s) of the Regulated Service(s), and

6.1.2 The User(s) of the Regulated Service (s) have not raised any reasonable objections or concerns in regard to the existing User Agreement(s), which have not been appropriately addressed.

Provided that the Authority may in its discretion consider such other additional evidence regarding reasonableness of User Agreement(s), as it may deem fit.

19.8. In this regard MAFFL has submitted that

“MAFFFL has provided the evidence of user consultation as well as the user agreements which help in ascertaining that the user agreements are reasonable. The user agreements are standard for all users and all users will pay the same tariff. As evidenced from the user consultation no concerns were raised by users.

Therefore the tariff should be regulated by the Authority under Light Touch Approach as per Chapter V of the Guidelines.”

19.9. In respect of user consultation MAFFFL has submitted that the stakeholders of MAFFFL are the Oil Companies supplying the fuel to the airlines. Further, as per per Clause 11.2 of the said CGF Guidelines, MAFFFL has initiated the user consultation process with all its stakeholders, in order to address all the concerns and issues faced by them regarding the process to be adopted for storage and handling of fuel, tariff to be levied and the quality of service provided. During the Stakeholder consultation MAFFFL made a presentation to all stakeholders covering in detail about the company, proposed plan and operations that would be carried out by MAFFFL. MAFFFL has attached furnished a summary of these consultations and also furnished a copy of the said minutes along with their MYTP.

19.10. The Authority notes that the regulated aeronautical service being rendered by MAFFFL is “material but not competitive”. MAFFFL have sought for a tariff Rs.828/KL to be levied for storage and handling of fuel and the quality of service provided. The tariff of Rs.828/KL arrived by MAFFFL is as per the CGF Guidelines and covers the last two tariff years of the first Control period i.e., 2014-15 and 2015-16.

19.11. The Authority notes that while MAFFFL has entered in to User Agreements with the users of the facility, they have not entered into any agreements nor had any stakeholder consultation with the Airlines who are the ultimate users of the ATF. Prima-facie, there is no evidence that there is an unambiguous user agreement on the rates proposed by MAFFPL with the Airlines. Therefore, for the first control period for MAFFFL i.e., 2014-2019 the Authority may adopt intrusive price cap regulation.

19.12. However, the Authority is also conscious of the fact that the tariff determination under the intrusive price cap regulation for MAFFFL is likely to take time as the Authority shall be required to analyse / have a bottom up approach of all the Regulatory Building Blocks, assumptions made by MAFFFL in arriving at the tariff.

19.13. The Authority further notes that the first Control Period of five years mentioned in the CGF Guidelines is April, 2011 to March, 2016. While MAFFFL has commenced

their operations on 14th January, 2015, they have approached this Authority in November, 2014 seeking prior approval of its tariff for storage and handling of fuel at the subject facility. Considering the fact that only One year of the first Control Period is left for implementation of the tariffs pursuant to the stake holder Consultation etc., the Authority proposes to fix the Control period as April, 2014 to March, 2019. As MAFFFL has commenced Operations in the last quarter of the FY 2014-15, the Authority is of the opinion that necessary information/ data pertaining to the Company would be available from the FY 2014-15 being the first year of the 5 year control period for MAFFFL i.e., April, 2014 to March, 2019. Further, since the Authority has proposed intrusive price cap regulation, additional information shall also be required to be furnished by MAFFFL for the balance three tariff years 2016-17, 2017-18 and 2018-19.

- 19.14. The Authority notes that MAFFFL have been rendering services since 14.01.2015 but have not been able to charge for their services. Therefore, there is a need to put in place an arrangement in respect of the period from 14.01.2015 to the date of implementation of the tariff determined under the intrusive price cap regulation for MAFFFL, so as to ensure safe, economical and viable operations of the fuel supply.
- 19.15. The Authority notes that MAFFFL have sought for an amount of Rs.828/KL as the tariff for the Fuel Infrastructure charges.
- 19.16. The Authority also notes, from the submissions made by MAFFFL, that presently HPCL is raising a charge of Rs 780/KL Infrastructure for fuelling the aircraft using their captive dispensers at the Domestic Airport of CSIA, Mumbai and IOCL is raising a charge of Rs 640/KL International Airport of CSIA, Mumbai.
- 19.17. In view of MAFFFL's request for approval of the tariff for urgent funds for statutory payments; fuel farm operator charges; license fee and rentals; day to day administrative expenses; Salaries and wages etc and to enable them have a financial closure and raise the funds to ensure smooth and uninterrupted operations of the fuelling operations at CSIA, the Authority proposes, for the present, an average of the existing Infrastructure charges for fuelling the aircraft i.e., Rs.710/KL (being the average of Rs.780/KL and Rs.640/KL that is presently being charged by IOCL and HPCL respectively, at CSI Airport, Mumbai).
20. The Authority has carefully considered the MYTP and ATP submitted by the Mumbai Aviation Fuel Farm Facility Pvt Ltd in respect of the Fuel Infrastructure charges to be levied for the services at CSI Airport, Mumbai and decides to make the following proposal for stakeholder consultation:
 - 20.1. Prima-facie, there is no evidence that there is an unambiguous user agreement on the rates proposed by MAFFPL with the Airlines, who are the users of the fuel. Therefore, for the first control period, the Authority may adopt intrusive price cap regulation.
 - 20.2. The five year first control period, in the case of MAFFFL, shall be from 1st April, 2014 to 31st March, 2019.
 - 20.3. The infrastructure charge in respect of the fuel farm services provided by MAFFFL at CSI Airport, Mumbai may be determined, for the present, @ Rs.710/KL from the period 14.01.2015, i.e., the date of commencement of operations by MAFFFL up to

date of implementation of the tariff determined under the intrusive price cap regulation for MAFFFL, so as to ensure safe, economical and viable operations of the fuel supply.

- 20.4. The revenue so collected by MAFFFL during such period shall be adjusted from the Aggregate Revenue Requirement for the first control period starting w.e.f. 01.04.2014.
- 20.5. MAFFFL is expected to make written submission of their MYTP as per the Guidelines of the Authority (CGF Guidelines) for determination of tariffs under price cap for the 1st Control Period w.e.f. 01.04.2014 to 31.03.2019 within a period of 1 month from 19.02.2015 which will be analysed by the Authority and a separate proposal will be placed for stakeholder consultation through a separate Consultation Paper.
21. In accordance with the provisions of Section 13(4) of the Act, the proposal contained in para 20 above is hereby put forth for stakeholder consultation. To assist the stakeholders in making their submissions in a meaningful and constructive manner, necessary documents are enclosed with this Consultation Paper. For removal of doubts, it is clarified that the contents of this Consultation Paper may not be construed as any Order or Direction of this Authority. The Authority shall pass an Order, in the matter, only after considering the submissions of the stakeholders in response hereto and by making such decision fully documented and explained in terms of the provisions of the Act.
22. The Authority welcomes written evidence-based feedback, comments and suggestions from stakeholders on the proposal made in para 20 above, latest by 02.03.2015 at the following address:

**Airports Economic Regulatory Authority of India,
AERA Building,
Administrative Complex,
Safdarjung Airport,
New Delhi - 110003
Email: alok.shekhar@gov.in
Tel: 011-24695042
Fax: 011-24695039**

**Alok Shekhar,
Secretary**

MAFFFL//SM/AERA/001

November 14, 2014

To,
The Chairman,
Airports Economic Regulatory Authority of India,
AERA Building,
Administrative Complex,
Safdarjung Airport,
New Delhi 110 003

Subject: Request for Interim Tariff Approval for Mumbai Aviation Fuel Farm Facility Private Limited for providing fuelling services at CSI Airport, Mumbai.

Dear Sir,

Mumbai Aviation Fuel Farm Facility Private Limited, a company registered under the Companies Act, 1956 and having registered office at 1st floor, Terminal 1B, Chhatrapati Shivaji International Airport, Mumbai - 400099, Maharashtra, India.

In a meeting of National Facilitation Committee (NFC) aimed at resolving issues related to development of Chhatrapati Shivaji International Airport (CSIA) including oil facilities at CSIA was held at New Delhi on 09th March 2009 chaired by Cabinet Secretary, GOI. In the subsequent meeting chaired by Secretary, Ministry of Petroleum and Natural Gas (MoPNG) at Mumbai on 15th April 2009, specifically with regards to the oil facilities at CSIA, it was decided that a joint venture company (JVC) would be constituted comprising of all the Oil Public Sector Undertakings (PSU) namely Indian Oil Corporation Limited (IOCL), Bharat Petroleum Corporation Limited (BPCL), Hindustan Petroleum Corporation Limited (HPCL) and Mumbai International Airport Private Limited (MIAL) for the purpose of managing the current aviation fuel facilities and creating an integrated aviation fuel facility at CSIA on open access model. Based on the decisions taken in the aforesaid meeting, MoU dated 30th September 2010 was executed between Oil PSUs and MIAL. The new integrated fuel facility is envisaged to be a crucial step towards airport development.

In line with above, a Joint Venture Company, viz Mumbai Aviation Fuel Farm Facility Private Limited (MAFFFL), on its formation will shortly take over the current Fuel facilities and construct an integrated fuel farm along with necessary hydrants within a reasonable time. The License Agreement signed between MAFFFL and MIAL, for MAFFFL to operate the Integrated Facilities, is valid up to 2nd May 2036.

Background:

Currently all the Oil PSUs namely HPCL, BPCL and IOCL are operating from their respective facilities located at Sahar and Santacruz areas on the land provided by CSIA. The planned Integrated Fuel Farm Facility will operate from a single point (i.e., at the site of the existing facilities of IOCL and HPCL near the Domestic

0000312

terminal 1A, Santacruz) to bring in the efficiencies of the integrated operations. The existing facilities acquired from the Oil PSUs will be disposed-off once the Integrated Fuel Farm is operational.

MAFFFL had submitted the proposed transaction to the Competition Commission of India (CCI) and have received its approval vide order dated 29th September 2014. Subsequently MAFFFL has started preparing a detailed MYTP for providing fuelling service at the said Fuel Farm at CSIA.

Transaction Structure:

After signing of the MOU, an Executive Committee (EC) was constituted comprising of representatives of all the three Oil PSUs and MIAL, which was tasked to conclude all the agreements between MIAL, Oil PSUs and MAFFFL and also decide on the various steps to operationalize MAFFFL. The Share Purchase and the Share Holders Agreements between the four shareholders (IOCL, BPCL, HPCL and MIAL) was signed on 6th March 2014. MIAL is granting MAFFFL the rights to design, develop, finance, operate and manage the Fuel Farm and to contract with third parties to undertake the functions of MAFFFL at CSIA, by way of License Agreement. The existing aviation fuel assets including the hydrant system of all the parties, at CSIA, will be transferred to MAFFFL by way of a Transfer Deed.

As described in the MoU, the transfer of all the rights, titles and interests in all the assets comprising the existing facilities from Oil PSUs and MIAL to MAFFFL will be done for a consideration equivalent to the replacement cost less depreciation of the existing facilities as agreed to between the shareholders. The ownership of pipelines connecting the refineries to aviation fuelling stations of the Oil PSUs/ integrated facility shall remain with the respective oil companies as per para 1.2.15 of the MoU. As agreed to by the EC members the replacement value of the current fuel farm facilities of Oil PSU's at CSIA, Mumbai was ascertained by Engineers India Ltd. (EIL). The replacement value as ascertained by EIL was depreciated based on life of facility, to arrive at the compensation to be paid by the MAFFFL to the PSUs. It was also agreed that MAFFFL will reimburse cost incurred by MIAL till date, pertaining to fuel hydrant system at this airport. This was envisaged under the MOU as MIAL had to commission the integrated terminal based on certain timeline and could not have waited for MAFFFL to be operationalised and start the project.

Based on agreement between EC members, Ernst & Young (E&Y) was engaged to prepare a feasibility report for the integrated fuel facility. It includes computation of the Fuel Infrastructure Charge (FIC), based on AERA's regulatory approach.

Exercising its rights under the license agreement (signed with MIAL), the EC in a meeting dated 3rd May 2013 decided that MAFFFL, through public tender will appoint a Fuel Farm Operator for managing the Fuel Farm Operations and two independent Into Plane (ITP) service providers for managing the ITP operations at

CSIA.MAFFFL has subsequently floated public tender for appointment of ITP Operators on 10th April 2014. Bharat Stars Services Private Limited and Indian Oil Skytanking Limited have been selected as the two parties for providing ITP Operations at CSIA for a period of 10 years. With regards to the Fuel farm operators, public tender for selection of the Operator been floated on 18th October 2014 and is expected to be finalized in December 2014. The period of contract for the fuel farm operations shall be for a period of 5 years.

Facility details:

On taking over the assets from the Oil PSUs, MAFFFL will be responsible for uninterrupted operations at the existing facilities situated at different areas in Mumbai Airport. MAFFFL will also simultaneously start the construction of the Integrated Fuel Farm at the identified site near the existing facilities of IOCL and HPCL near the Domestic terminal 1A, Santacruz. The Integrated Fuel Farm will be built on an area of approximately 30,000 square meters and will have a static storage capacity of 47,500 kiloliters of ATF. The Facility will be ready for Operations by the end of FY 2018. The existing facilities acquired from the Oil PSUs will be disposed-off once the Integrated Fuel Farm is operational.

Revenues & Costs:

MAFFFL will charge the Fuel Infrastructure Charge from the fuel suppliers as approved by AERA. Additionally, the suppliers will pay the ITP fee as approved by AERA to the third-party ITP operators appointed by MAFFFL. MAFFFL will also get a revenue share by way of sub-concession fee from the third-party ITP operators.

In accordance with the MoU, the license fee/ lease rent for the land underlying the existing facilities transferred to MAFFFL, shall be paid by MAFFFL to MIAL. All the other operating costs associated with the Fuel Farm operations will be borne by MAFFFL.

Tariff Determination:

The services of supply of fuel to aircraft at an airport being defined as Regulated Services under Section 2(A)(4)(5) of AERA Act, 2008 and vide your order dated 21st Feb 2011 require such service provider to seek Tariff approval by filing Multi Year Tariff Proposal (MYTP).

As set out under section 8, the procedure for preparing Multi Year Tariff Proposal (read with clause 7.1) under which clause 8.2 states that "The Multi Year Tariff Proposal shall clearly outline the Aggregate Revenue Requirement (ARR) for each tariff year based on these guidelines". Further to that, clause 8.2 and 8.3 of the said guidelines set out in detail the methodology of determining/ calculating Aggregate Revenue Requirement (ARR) by considering the following Regulatory Building Block components:

0000314

Page 3 of 4

- Fair Rate of Return applied to the Regulatory Asset Base (FRoR x RAB)
- Operation and Maintenance Expenditure (O)
- Depreciation (D)
- Taxation (T)
- Revenues from services other than Regulated Service(s) (NAR)

$$ARR = (FRoR \times RAB) + D + O + T - NAR$$

E&Y has arrived at a Fuel Infrastructure Charge of INR 826 per kiloliter of fuel stored and handled in the facility based on the above mentioned regulatory building blocks and operational inputs from the MAFFFL's management.

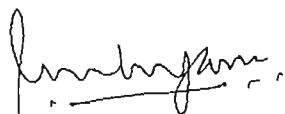
MAFFFL is expected to commence its commercial operations by 24th November 2014 and will seek the financial closure for the project; We, therefore, would sincerely request the authority to grant interim approval for an interim tariff of INR 826 per kiloliter (as computed in the feasibility study by E&Y) for providing the Fuel Storage and Handling services at the Facility, till the final order by AERA is received on MAFFFL's MYTP. This will help MAFFFL to address the working capital issues, achieve the financial closure and would also enable MAFFFL to provide uninterrupted services to its customers.

We further state and commit that any changes in the final tariff as per the AERA final order shall be complied with and any under-recovery or over-recovery shall be adjusted subsequently.

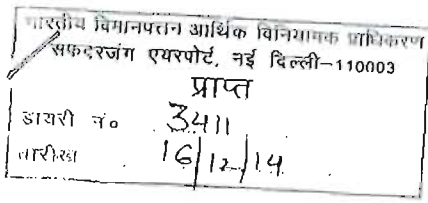
It may also be noted that stakeholder consultations with various customers for our services and tariff will be held and will be incorporated in the detailed MYTP that shall be submitted shortly to the authority for its approval.

We would be happy to provide any further clarification if so required by the Authority.

Yours Sincerely,



Shyam Mustyalwar
Chief Executive Officer,
Mumbai Aviation Fuel Farm Facility Private Limited



MAFFFL//SM/AERA/11

December 12, 2014

To,
The Secretary,
Airports Economic Regulatory Authority of India,
AERA Building,
Administrative Complex,
Safdarjung Airport,
New Delhi 110 003

Subject: Request for Interim Tariff Approval for Mumbai Aviation Fuel Farm Facility Private Limited for providing fuelling services at CSI Airport, Mumbai.

Dear Sir,

In furtherance to our request for Interim Tariff Proposal submitted on 14th November, 2014, MAFFFL is ready to start the commercial operations and awaiting the approval of an interim tariff of INR 826/KL (As computed in the feasibility study by E&Y) for providing the Fuel Storage and Handling services at the Facility, till the final order by AERA is received on MAFFFL's MYTP.

Revenues are required by MAFFFL to start the operations and only source of revenue to MAFFFL is by way of the fuel infrastructure charges to be collected from the Suppliers. With the transfer of existing facilities by the Oil PSU to MAFFFL, it shall be the responsibility of MAFFFL to operate the same so that the airport operations are not affected.

MAFFFL is ready to start the operations and starting of operations with interim tariff will help MAFFFL in overcoming the working capital requirements and financial closure of the project.

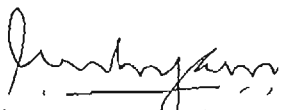
As advised earlier, the Competition Commission of India (CCI) has given its approval to the combination. It is to inform that for the financial closure of the project, a lead arranger has already been appointed by MAFFFL. It is also to inform that the MYTP is under preparation and M/s PriceWaterhouse Coopers have been appointed for preparing the same. The MYTP shall be submitted for authority's consideration after the stakeholder consultation, definitely before end of December 2014.

0000316

Page 1 of 2

We once again request for the approval of the interim tariff and would be happy to provide any further clarification, if so required by the Authority.

Yours Sincerely,



Shyam Musty alwar
Chief Executive Officer,
Mumbai Aviation Fuel Farm Facility Private Limited

Minutes of the Meeting

Minutes of the Meeting held by Mumbai Aviation Fuel Farm Facility Private Limited (MAFFFL) with Aviation Fuel suppliers at Mumbai Aviation Fuel Farm Facility Private Limited, 2nd floor, Terminal 1B, Chhatrapati Shivaji International Airport, Mumbai on 17th December 2014.

List of Participants:

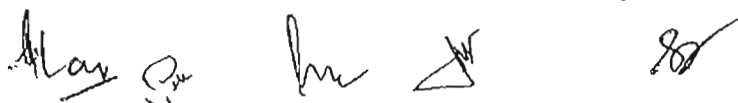
S. No.	Name of Participants	Name of the organization
1	Mr. Shyam Mustyalwar	Mumbai Aviation Fuel Farm Facility Private Limited
2	Mrs. Geeta Iyer	Mumbai Aviation Fuel Farm Facility Private Limited
3	Mr. R. Sitharthan	Indian Oil Corporation Limited
4	Mr. P. J. Kavde	Bharat Petroleum Corporation Limited
5	Mr. Sibi Mathew	Hindustan Petroleum Corporation Limited

The agenda for the meeting was:

1. Discussion regarding the progress on the process of taking over of the existing facilities from respective Oil PSUs and the timelines going forward
2. Consultation on the Interim Tariff for Fuel Infrastructure Charges (FIC) of INR 826 per kiloliter

Points discussed:

1. Mr. Mustyalwar started the meeting by stating the readiness of MAFFFL in taking over the existing facilities from respective Oil PSUs in following aspects –
 - a. Start of Operations –
MAFFFL is ready to start the operations from 22nd December 2014
 - b. Status of transfer deed and license agreement –
The agreements are ready in all respect and are planned to be signed one day before the start of operations by MAFFFL. All the



0000318

parties entering into the agreements have necessary approvals from their respective boards for execution of the said agreements

c. Registration for Shop & establishment –

Applications have to be submitted within 30 days from the start of operations. MAFFFL has all the applications ready and will apply within a week's time after the start of the operations

d. Factory license –

Factory license application has been submitted by MAFFFL and is under consideration of the respective authority.

e. BMC Storage & Factory License:

Applications for BMC's Storage and Factory License have been submitted by MAFFFL to the relevant authority (BMC) and are under consideration.

f. PESO License –

Application is ready and will be submitted along with the copy of the transfer deed

g. Insurance for the Facility –

MAFFFL has made the payment for the premium of the Insurance policy for the whole facility. The policy will start from the start date of operations.

h. Readiness of ITP operators –

Agreements have been signed with the two ITP operators Bharat Stars Services Private Limited and Indian Oil Skytanking Limited. The ITP operators have conveyed their plans to start the operations from 26th December 2014 onwards and expect the necessary approvals in place by that time.

i. Status of the tender process for appointing the Fuel Farm Operator

Public tender for the appointment of Fuel Farm Operator has been floated and the last date of submission is 26th December 2014. MAFFFL has agreed for the Interim arrangement with existing Oil

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PSUs to operate the existing facilities on MAFFFL's behalf till the Fuel Farm Operator is in place.

2. Mr. Mustyalwar also apprised the users that MAFFFL has approached Airport Economic Regulatory Authority seeking approval on an Interim Tariff for Fuel Infrastructure Charges of INR 826/- per kiloliter
3. Mr. Mustyalwar elaborated that since the tariff of INR 826/- per kiloliter was calculated by E&Y based on the AERA's regulatory building block approach and was subsequently discussed & approved by the respective boards of all the Oil PSUs, MAFFFL is seeking an Interim Tariff at this rate only
4. However, Mr. Mustyalwar also highlighted that MAFFFL is working on the revised calculations to arrive at a final price for Fuel Infrastructure Charges and are preparing the Multi Year Tariff Proposal to be submitted to AERA. MAFFFL will organize another stakeholder consultation process to discuss the revised price proposed in their MYTP

Concerns raised by stakeholders:

1. Oil PSUs advised that any rate approval (apart from the already approved Fuel Infrastructure Charges of INR 826/- per kiloliter) would require a separate approval from respective managements of the Oil PSUs
2. The rate arrived as per the E&Y feasibility report for Fuel Infrastructure Charges is already considered and approved by the respective boards and presently the services at this rate are acceptable to the Oil PSUs
3. On submission of the revised tariff Oil PSUs will seek relevant justifications for the revision and a separate approval for the same shall be sought from respective managements
4. Further the Oil PSUs added that a management approval would require at least 3-4 weeks after the revised proposal is submitted from MAFFFL

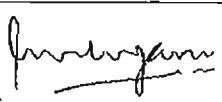
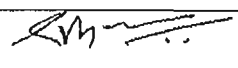
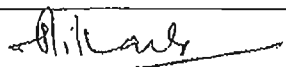
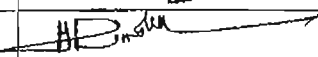



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MAFFFL's response to the concerns raised:

1. Mr. Mustyalwar agreed that MAFFFL will provide the revised cost with detailed justification at the time of user consultation for Multi Year Tariff Proposal
2. Oil PSUs to attempt to obtain the management approval for the revised tariff within a week's time, this will enable MAFFFL to obtain requisite approval from AERA on the final tariff to ensure timely and uninterrupted fuelling operations at CSIA

End of the minutes of meeting.

S. No.	Name of Participants	Name of the organization	Date	Signature
1	Mr. Shyam Mustyalwar	MAFFFL	17/12/2014	
2	Mrs. Geeta Iyer	MAFFFL	17/12/2014	
3	Mr. R. Sitharthan	IOCL	17/12/2014	
4	Mr. P. J. Kavde	BPCL	17/12/2014	
5	Mr. Sibi Mathew	HPCL	17/12/2014	

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MAFFFL//SM/AERA/14

December 19, 2014

To,
The Secretary,
Airports Economic Regulatory Authority of India,
AERA Building,
Administrative Complex,
Safdarjung Airport,
New Delhi 110 003

Subject: Request for Interim Tariff Approval for Mumbai Aviation Fuel Farm Facility Private Limited for providing fuelling services at CSI Airport, Mumbai.

Dear Sir,

In furtherance to our request for Interim Tariff Proposal submitted on 14th November, 2014 and a request letter submitted on 10th December, 2014, MAFFFL would like to appraise the authority of the following developments:

1. MAFFFL has undertaken a user consultation with the users of the facility on 17th December 2014 with regards to the Interim Tariff Proposal submitted by MAFFFL to the authority (Please find the MoM attached as Annexure 1).
2. Refer to the discussion regarding the cost of operations of Oil PSUs, MAFFFL has received the similar query from Competition Commission of India (CCI) and the relevant excerpts on page no 8 point 11 from MAFFFL's response to CCI's query is below (Please find the response to CCI queries attached as Annexure 2):

QUERY 2(x): As per paragraph 5.1.10 of the Notice, it has been claimed by the parties that: *"the decision to incorporate MAFFFL was taken with a view to ensure optimal land utilization in a currently land constrained Mumbai Airport, besides bringing about more efficiency in the overall fuelling operations at considerably lower cost with reduced man power."* In this regard, Parties are required to provide data on the potential cost savings anticipated for both fixed and variable components.

MAFFFL's Response – "The average cost of operation for BPCL/HPCL/IOCL at Mumbai Airport for the year 2013-2014 is:

Page 1 of 3

Mumbai Aviation Fuel Farm Facility Private Limited
MIAL 2nd Floor, Terminal 1 B - Arrival, CSI Airport, Santacruz (E), Mumbai – 400099
Tel : +91 22 66852145 CIN: U63000MH2010PTC200463

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Name of the Airport	Year	Cost per KL (Rs./KL)
Mumbai	2012-2013	1004.10
	2013-2014	1054.305 ¹

11.1 In relation to MAFFFL, it is submitted that the estimated cost for fuel infrastructure charges is approximately Rs. 826/ KL and that of ITP services approximately Rs. 208/KL. While these charges are regulated by AERA, the estimated average cost for each of the PSUs will be Rs. 1034/KL. Therefore, the prior cost of operation is higher by at least Rs. 14 per KL than the cost post creation of the integrated fuel farm facilities in Mumbai Airport, thereby evidencing significant cost savings."

It is also to inform that, the Oil PSUs have advised, for the fuel supplies made at their locations, with captive infrastructure, like the present operations in Mumbai, the cost of operations ITP and Fuel farm cannot be segregated as the resources for all the operations were clubbed and not segregated. The billing done by the Oil PSUs to the customers includes the cost of all the services required for supply and delivering the fuel into the aircraft.

The above mentioned average cost of operations of the Oil PSU's, submitted to CCI is purely the cost of operations and does not include the overall cost of infrastructure and other overheads. Hence under the new system, wherein the ITP services and fuel farm services are segregated and regulated, would lead to increased cost savings.

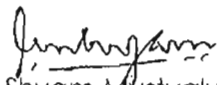
3. MAFFFL plans to submit the Multi Year Tariff Proposal along with the stake-holders consultation within 60 days from the date of this letter.

MAFFFL is ready to start the commercial operations and awaiting the approval of an interim tariff of INR 826/KL (As computed in the feasibility study by E&Y) for providing the Fuel Storage and Handling services at the Facility, till the final order by AERA is received on MAFFFL's MYTP.

Starting of operations with interim tariff will help MAFFFL in overcoming the working capital requirements and financial closure of the project.

We once again request for the approval of the interim tariff and would be happy to provide any further clarification, if so required by the Authority.

Yours Sincerely,



Shyam Mustyalwar
Chief Executive Officer,
Mumbai Aviation Fuel Farm Facility Private Limited

Date: 12th January 2015

To,
 The Secretary,
 Airports Economic Regulatory Authority of India,
 AERA Building,
 Administrative Complex,
 Safdarjung Airport,
 New Delhi 110 003

Subject: Submission of Multi Year Tariff Plan Proposal for Mumbai Aviation Fuel Farm Facility Private Limited Integrated Fuel Farm at CSI Airport, Mumbai.

Dear Sir,

This is further to the presentation made by MAFFFL to the Authority on January 9, 2015. During the presentation, additional information on the clarifications requested is given below;

1. Treatment of various charges

- Stamp duty and registration fee for the License Agreement and the ITP Agreements, as these are not related to the capex activities hence considered under O&M charges. Further under O&M, the different heads under AERA guidelines are payroll, administration and general, repair and maintenance, utilities and outsourcing and others.
- It is also to mention that the stamp duty and registration charges on transfer deed are charged to project cost, based on the accounting opinion of KPMG.

2. Dead stock

- The dead stock held by MAFFFL is not held in its ordinary course of business since MAFFFL's business is to provide storage space for storing fuels and not to buy or sell fuel. Moreover, the dead stock is not consumed in the services related to storage of fuel, since this is the minimum level of material which is required to be held at all times in the oil storage tank in order it to be able to make it operational throughout the life of the storage tank and provide the required storage service. There is no quantity variation during the life of project.
- The opinion from KPMG on same is enclosed herewith.

3. Securitization of assets with Lenders

- As per the license agreement between MIAL and MAFFFL, which flows from the OMDA, securitization of assets is not permissible.
- Understand, MIAL also has given the charge on the revenues.

4. Amortization of pre-formation costs

- The Guidance Note on Treatment of Expenditure, During Construction issued by the Institute of Chartered Accountants of India (ICAI) had permitted the capitalization and amortization of such start-up or preliminary expenses. However, the ICAI has withdrawn this guidance note in 2008. Accordingly, such preliminary expenses including startup costs are expensed when incurred.
- The opinion from KPMG on same is enclosed herewith.

5. Impact of the fuel infrastructure and ITP charges to the airlines

- It is also to inform that, the Oil PSUs have advised, for the fuel supplies made at their locations, with captive infrastructure, like the present operations in Mumbai, the cost of operations ITP and Fuel farm cannot be segregated as the resources for all the operations are clubbed and not segregated.. Accordingly the billing done by the Oil PSUs to the customers, includes the cost of all the services required for supply and delivering the fuel into the aircraft and the above said charges are not separately indicated. Copies of the invoices of Oil PSU, presently being issued at Mumbai Airport is enclosed.
- Also the fuel infrastructure charges including the ITP service fee shall not be additional charges over and above the present airfield price and shall be part of the airfield price being charged by the Oil PSU to the airlines.

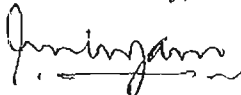
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- ♦ In the submission to CCI, the average cost of operation by the Oil PSU's for the year 2013-14 was advised at Rs 1054/KL. Against the same the cost of operation after takeover by MAFFFL shall be about Rs 828/KL for the Fuel Infrastructure charges and Rs 198/KL for the ITP charges, totaling about Rs 1026/KL. The above mentioned average cost of operations of the Oil PSU's, submitted to CCI is purely the cost of operations and does not include the overall cost of infrastructure and other overheads. The charges of MAFFFL is inclusive of same. Hence with the start of operations by MAFFFL, wherein the ITP services and fuel farm services are segregated and regulated, there would be considerable savings in the overall cost of operations.
6. Reasonableness
- The JVC has been cleared by CCI after being assured of not creating any adverse effect on the competition.
 - All the agreements will be similar to all the users and will be in public domain.
 - The rates charged shall be approved by AERA and no discrimination between the users shall be made.
 - The rates proposed have been agreed to by the present users. The consultation paper is already submitted along with the proposal.
 - These rates as such are not being loaded by the suppliers additional to the airfield price.
 - View all above this proposal be kindly considered under the light touch approach.
7. User consultation
- MAFFFL's business dealings are limited only with the Suppliers and the consultation paper with the existing suppliers has already been submitted.
 - The rate offered to the Oil PSU of Rs 828/KL, is in line with the rate presented to their Boards, for the approval of participation in the JVC.
8. Segregation of capital and CWIP
- The same has been done and the capital expenditure for a 10 year period has also been provided.
9. Additional documents regarding compensation to Existing Assets of Oil PSU
- Please find attached the transfer deed to be signed regarding the actual costs being paid to the Oil PSU's for existing assets and the same will be reflected in the books of MAFFFL. The stamp duty on same has already been paid.

I would be happy to provide any further clarification if so required by the Authority.

Yours Sincerely,



Shyam Mustyalwar
Chief Executive Officer

Enclosures:

1. Copy of Transfer deed
2. Copy of KPMG report
3. Additional MYTP forms
4. Copy of invoices to customers by Oil PSU at Mumbai Airport

0000571



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Private and confidential

Ms. Geeta Iyer
Chief Financial Officer, Mumbai Aviation Fuel Farm Facility Private Limited
C/O Mumbai International Airport Limited,
Chhatrapati Shivaji International Airport, Terminal 1B, 2nd floor
Santa Cruz
Mumbai- 400 099

26 November 2014

Dear Ms. Iyer,

Thank you for your query asking us to analyse the accounting implications with respect to the specific aspects of the sale of assets by the shareholders of Mumbai Aviation Fuel Farm Facility Private Limited ('MAFFFPL' or 'the Company') in the financial statements of the Company under Indian Generally Accepted Accounting Principles ('Indian GAAP').

This letter sets out the query and facts provided by management of the MAFFFPL and reviewed by us for the purpose of the aforesaid accounting analysis. Our accounting analysis is set out in paragraph 4 below.

1. Documents reviewed

We have been provided with the draft transfer deed amongst Mumbai International Airport Private Limited, Indian Oil Corporation Limited, Bharat Petroleum Corporation Limited, Hindustan Petroleum Corporation Limited and MAFFFPL ('the deed' or 'the transfer deed') and have reviewed the deed to the extent pertaining to this query.

2. Background

- MAFFFPL was formed as a Joint Venture Company (JVC) between Hindustan Petroleum Corporation Limited (HPCCL), Bharat Petroleum Corporation Limited (BPCL), Indian Oil Corporation Limited (IOCL) (together 'oil PSUs') and Mumbai International Airport Ltd (MIAL).
- MAFFFPL will take over existing assets of these oil PSUs and MIAL with an aim to provide a single point distribution and refueling of Aviation Turbine Fuel (ATF) at Chhatrapati Shivaji International Airport, Mumbai

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0000572

KPMG, an Indian partnership firm, is a member firm of the KPMG network of independent member firms affiliated with KPMG International Cooperative ("KPMG International"), a Swiss entity.





3. Facts provided and queries raised

- MAFFFPL is planning to enter into an agreement with the oil PSUs and MIAL for buying their existing assets and has undertaken a feasibility study for the same.
- MAFFFPL will operate maintain these facilities and assets acquired for the next 3 to 4 years and will eventually develop its own integrated fuel farm facilities at Mumbai airport.
- MAFFFPL primarily provides services and storage space for storing fuels. It is however not in the business of selling or purchasing fuels.
- As part of the asset purchase, along with the plant and machinery, MAFFFPL will also receive dead stock, i.e. a minimum level of stock required to be maintained in plant and machinery (oil storage tank) to make it operational throughout the life of the asset. MAFFFPL will pay an additional consideration to the sellers for the same. There will be no change in the quantity of the dead stock. The dead stock will be sold at the realisable value at end of the tenure.
- The assets taken over are assets that are ready to use and MAFFFPL can operate them immediately.
- Oil PSUs and MIAL, the shareholders of MAFFFPL, have incurred certain pre-formation expenditure such as incorporation expenses, consultation and other charges, salaries for deputed employees amongst others.
- Part of the funding for the project will be by way of obtaining term loans. The Company is thus required to incur certain expenses like interest on borrowings, charges in relation to obtaining of loans (lead arranger fee, legal counsel fee, processing fee, survey fee). Further, the Company has also furnished a performance guarantee to MIAL for the tenure of the agreement and has paid the bank an amount towards margin money for the guarantee.
- Accordingly, the Company is evaluating the following accounting issues under Indian GAAP:
 - Issue 1: whether the dead stock received together with the plant and machinery should be accounted for as a fixed asset or as inventory and in case dead stock is accounted as a fixed asset, over what period should the asset be depreciated
 - Issue 2: whether the pre-incorporation expenses incurred can be capitalised by the Company in its books and if so, the period over which these are to be amortised
 - Issue 3: whether the interest payable on term loans taken in respect of the existing assets and constructed assets can be capitalised to the cost of the assets. If the interest payable can be capitalised then whether the entire interest payable can be capitalised or whether only the portion of interest can be capitalised
 - Issue 4: whether expenses paid in respect of origination of the term loans can be capitalised to the cost of the asset
 - Issue 5: the accounting treatment for the guarantee commission paid to the bank and the accounting for the margin money deposit

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0000573

4. Analysis under Indian GAAP

The accounting analysis and the conclusion for each of the issues highlighted above is presented in the subsequent paragraphs.

4.1. Issue 1: Accounting for dead stock purchased together with the plant and machinery

- Dead stock is the minimum level of material needed to be maintained in the plant and machinery for the plant and machinery to operate for its intended use. The storage tanks will be located at the airport in order to facilitate refilling of aircrafts as and when required. Minimum level of fuel is required to be maintained in the storage tanks by design/nature- below this level the fuel cannot be withdrawn from the tanks. It is not at the discretion of the company.
- As per Paragraph 3 of Accounting Standard 2 (Revised)- Valuation of Inventories ('AS 2'):
"inventories are assets:
(a) Held for sale in the ordinary course of business;
(b) In the process of production for such sale; or
(c) In the form of materials or supplies to be consumed in the production process or in the rendering of services"

Further, as per paragraph 4:

4. Inventories encompass goods purchased and held for resale, for example, merchandise purchased by a retailer and held for resale, computer software held for resale, or land and other property held for resale. Inventories also encompass finished goods produced, or work in progress being produced, by the enterprise and include materials, maintenance supplies, consumables and loose tools awaiting use in the production process. Inventories do not include machinery spares which can be used only in connection with an item of fixed asset and whose use is expected to be irregular; such machinery spares are accounted for in accordance with Accounting Standard (AS) 10, Accounting for Fixed Assets.

- Further, as per Paragraph 6.1 of Accounting Standard 10- Accounting for Fixed Assets (AS 10):

Fixed asset is an asset held with the intention of being used for the purpose of producing or providing goods or services and is not held for sale in the normal course of business

- The dead stock held by MAFFFPL is not held for sale in its ordinary course of business since MAFFFPL's business is to provide storage space for storing fuels and not to buy or sell fuel. Accordingly conditions (a) and (b) of Paragraph 3 of AS 2 are not applicable to the Company.

Moreover, the dead stock is not consumed in the services related to storage of fuel, since this is the minimum level of material which is required to be held at all times in the oil storage tank in order to make it operational throughout its life and provide the required storage service. As a result, condition (c) of Paragraph 3 of AS 2 would also not be applicable to the Company.

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0000574

- Based on the facts of the case, it is evident that the dead stock is held with the intention of enabling the machinery to perform its intended functions and render storage services.
- It can be argued that in the given case, paragraph 6.1 of AS-10 referred above, would apply to the Company and the dead stock would meet the definition of a fixed asset as it is necessary for the operation of the facility.
- The above is also supported by paragraph 9.1 of AS 10, which provides guidance on identification of fixed assets as below:

"The cost of an item of fixed asset comprises its purchase price, including import duties and other non-refundable taxes or levies and any directly attributable cost of bringing the asset to its working condition for its intended use; any trade discounts and rebates are deducted in arriving at the purchase price. Examples of directly attributable costs are:

- (i) site preparation;*
- (ii) initial delivery and handling costs;*
- (iii) installation cost, such as special foundations for plant; and*
- (iv) professional fees, for example fees of architects and engineers."*

Accordingly, the cost of acquiring dead stock is in the nature of a cost that is directly attributable cost of bringing the oil storage tanks / plant and machinery to its working condition for its intended use of providing storage services.

- The Expert Advisory Committee of the Institute of Chartered Accountants of India in its opinion (No 21- Volume XXI) on valuation of inventories dealt with an opinion the accounting for dead stock in the tanks of a company engaged in the business of refining, transportation through pipelines and the marketing petroleum products. According to Committee, the stock of crude oil in pipelines and tanks was not held for the purpose of producing or providing goods or services as contemplated in AS 10. Instead, it was opined that stock of crude oil in the pipelines was held in the process of production and the stock of finished products was held for sale in the ordinary course of business. Accordingly, the opinion required the dead stock to be accounted as inventory as per AS 2.

In our view the facts and circumstances considered in that instance were different from those of MAFFPL's case. The situation considered in the EAC opinion was of a company engaged in the business of refining, transportation and marketing of petroleum products and not in the business of providing storage services. Accordingly, the opinion of the EAC would not apply in the current situation.

- Similar guidance is also available in International Financial Reporting Standards under IAS 16- Property, plant and equipment (IAS 16). Paragraph 16(b) of IAS 16 states that:

The cost of an item of property, plant and equipment comprises:

- a) its purchase price, including import duties and non-refundable purchase taxes, after deducting trade discounts and rebates*
- b) any costs directly attributable to bringing the asset to the location and condition necessary for it to be capable of operating in the manner intended by management,*
- c) the initial estimate of the costs of dismantling and removing the item and restoring the site on which it is located, the obligation for which an entity incurs either when the*

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0000575

item is acquired or as a consequence of having used the item during a particular period for purposes other than to produce inventories during that period

- The basic principle to be applied while capitalising an item of cost to a fixed asset/project under construction is that it should be directly attributable to the fixed asset for bringing it to its working condition for its intended use. The costs that are directly attributable to the acquisition of a fixed asset for bringing it to its working condition are those costs that would have been avoided if the acquisition had not been made. These are the expenditures without the incurrence of which, the asset could not be brought to its working condition, such as, site preparation costs, installation costs, salaries of engineers engaged in construction activities, etc. The above-discussed principle of avoidance of costs as the basis of identifying directly attributable cost for the purpose of capitalisation is also supported by AS 16. In the given case, the deadstock is necessary to bring the fixed asset in a condition necessary for it to be operating in a manner as intended by the Company.
- Thus the dead stock should be recognised as a component of the PPE at cost. It would be subject to depreciation and be written down to its estimated residual value.

As per Paragraphs 3.1 and 3.4 of Accounting Standard 6- Accounting for Depreciation (AS 6):

Depreciation is a measure of the wearing out, consumption or other loss of value of a depreciable asset arising from use, effluxion of time or obsolescence through technology and market changes. Depreciation is allocated so as to charge a fair proportion of the depreciable amount in each accounting period during the expected useful life of the asset. Depreciation includes amortisation of assets whose useful life is predetermined

Depreciable amount of a depreciable asset is its historical cost, or other amount substituted for historical cost in the financial statements, less the estimated residual value.

- Further, as per Paragraph 5 of AS 6, the assessment of depreciation and the amount charged in an accounting period is based on the historical cost of the asset, the expected useful life of the asset and the estimated residual value of the asset.
- As per Paragraph 3.3 of AS 6, the useful life is:

Useful life is either

- (i) the period over which a depreciable asset is expected to be used by the enterprise; or*
- (ii) the number of production or similar units expected to be obtained from the use of the asset by the enterprise.*

Accordingly, even if the assets have a longer physical useful life, if the management estimates that they will actually be used for a period shorter than the physical life, the period over which the asset is expected to be used by the management would be considered for the purposes of determining the depreciation charge.

- Moreover, depreciation is also impacted by the residual value of the asset. Paragraph 10 of AS 10 provides guidance on the estimation of the residual value of the asset:

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0000576

Determination of residual value of an asset is normally a difficult matter. If such value is considered as insignificant, it is normally regarded as nil. On the contrary, if the residual value is likely to be significant, it is estimated at the time of acquisition/installation, or at the time of subsequent revaluation of the asset. One of the bases for determining the residual value would be the realisable value of similar assets which have reached the end of their useful lives and have operated under conditions similar to those in which the asset will be used.

- Requirements of Schedule II of the Companies Act 2013 (the Act) with respect to depreciation are as below:
 - The useful life of an asset shall not be longer than the useful life specified in Part C and the residual value of an asset shall not be more than five percent of the original cost of the asset
 - Provided that where a company uses a useful life or residual value of the asset which is different from the above limits, justifications for the difference shall be disclosed in its financial statements
- Thus the Company may on the basis of an objective technical and economic evaluation, determine a residual value of more than 5% and a useful life of plant and machinery different from that prescribed in the Act. However, it would be required to disclose the facts and disclose reasons for the same.
- The useful life for plant and machinery (storage tanks and related equipment) used in exploration, production, and refining oil and gas prescribed in the Act is 25 years. However it may be noted that Schedule II recognizes the concept of component accounting. Note 4 in Schedule II states as below:

(a) Useful life specified in Part C of the Schedule is for whole of the asset. Where cost of a part of the asset is significant to total cost of the asset and useful life of the part is different from the useful life of the remaining asset, useful life of the significant part shall be determined separately.

(b) The requirement under sub-paragraph (a) shall be voluntary in respect of financial years commencing on or after the 1st April, 2014 and mandatory for financial statements in respect of financial years commencing on or after the 1st April 2015.

Two issues arise in this context. Firstly is the value of dead stock significant to the total cost of the storage tank. If so we should treat it as a separate component. Its useful life should be evaluated and we should consider whether it would need recharging or whether there is an expected loss in the quantity or value of dead stock over the life of the asset of which it is a part. If so, depreciation should be charged on this component separately. This would also depend upon the fact whether loss relating to dead stock (if any) is borne by MAFFFPL or whether as per fuel sale agreements it is compensated by the customers.

- The Company should recognise the dead stock as an item of fixed assets and depreciate the depreciable amount over its expected useful life as highlighted above.

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0000577

4.2. Issue 2: Capitalisation of pre-incorporation expenses

- As we understand, the pre-incorporation expenses refer to preliminary expenses incurred in establishing the company such as legal and secretarial costs, professional charges and other related payments.
- Paragraph 6 of Accounting Standard 26- Intangible Assets defines an intangible asset (AS 26) as follows:

an identifiable non-monetary asset, without physical substance, held for use in the production or supply of goods or services, for rental to others, or for administrative purposes.

Non-monetary assets are assets other than money held and assets to be received in fixed or determinable amounts of money.

- As per Paragraph 55 of AS 26, expenditure on an intangible asset:
should be recognised as an expense when incurred unless it meets the following criteria:
 - it forms part of the cost of an intangible asset that meets the recognition criteria (see paragraphs 19-54); or*
 - the item is acquired in an amalgamation in the nature of purchase and cannot be recognised as an intangible asset. If this is the case, this expenditure (included in the cost of acquisition) should form part of the amount attributed to goodwill (capital reserve) at the date of acquisition*
- AS 26 also describes situations wherein an expenditure is incurred to provide future economic benefits to an enterprise, but an intangible asset is not recognised. In such situations, the amount is recognised as an expense when incurred.
- The instances of such situations are provided in Paragraph 56 of AS 26 are as below:
 - expenditure on start-up activities (start-up costs), unless this expenditure is included in the cost of an item of fixed asset under AS 10. Start-up costs may consist of preliminary expenses incurred in establishing a legal entity such as legal and secretarial costs, expenditure to open a new facility or business (pre-opening costs) or expenditures for commencing new operations or launching new products or processes (pre-operating costs);*
 - expenditure on training activities;*
 - expenditure on advertising and promotional activities; and*
 - expenditure on relocating or re-organising part or all of an enterprise.*
- The Guidance Note on Treatment of Expenditure During Construction Period issued by the Institute of Chartered Accountants of India (ICAI) permitted the capitalisation and amortisation of such start-up or preliminary expenses. However, the ICAI has withdrawn this guidance note in 2008. Accordingly, such preliminary expenses including startup costs are expensed when incurred.
- Accordingly, the Company is required to recognise the pre-incorporation expenses (i.e. expenses incurred to establish the legal entity (MAFFFPL) e.g., legal and secretarial expenses) as an expense and the same should not be capitalised.

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0000578

4.3. **Issue 3: Accounting for interest and other costs relating to term loans**

- As per Paragraph 3 of Accounting Standard 16- Borrowing Costs (AS 16):

Borrowing costs are interest and other costs incurred by an enterprise in connection with the borrowing of funds

A qualifying asset is an asset that necessarily takes a substantial period of time to get ready for its intended use or sale.

Ordinarily, a period of twelve months is considered as substantial period of time unless a shorter or longer period can be justified on the basis of facts and circumstances of the case.

- Accordingly, any asset that does not take a substantial period of time to get ready for its intended use, is not considered to be a qualifying asset for the purpose of AS 16 and any borrowing costs incurred in respect of such assets cannot be capitalised to the cost of the asset.
- The assets purchased from the Oil PSUs, are purchased on an 'as is where basis' and are acquired together with the dead stock, which is required for the assets to be operational. Thus, it appears that these assets are ready for their intended use and do not take a substantial period of time to get ready for the intended use. Consequently, any borrowing costs incurred to finance the purchase of the assets from the Oil PSUs cannot be capitalised as a part of the cost of the assets and must be expensed as incurred.
- In addition to the assets purchased from the Oil PSUs, the Company is also in the process of constructing new assets. We are given to understand that these new assets under construction require a substantial period of time to get ready for their intended use, thus the borrowing costs incurred on these constructed assets should be capitalised by the Company.
- Paragraphs 8, 10 and 12 of AS 16 provide guidance on the amount of borrowing costs that should be capitalised:

8. The borrowing costs that are directly attributable to the acquisition, construction or production of a qualifying asset are those borrowing costs that would have been avoided if the expenditure on the qualifying asset had not been made.....

10. To the extent that funds are borrowed specifically for the purpose of obtaining a qualifying asset, the amount of borrowing costs eligible for capitalisation on that asset should be determined as the actual borrowing costs incurred on that borrowing during the period less any income on the temporary investment of those borrowings.

12 To the extent that funds are borrowed generally and used for the purpose of obtaining a qualifying asset, the amount of borrowing costs eligible for capitalisation should be determined by applying a capitalisation rate to the expenditure on that asset. The capitalisation rate should be the weighted average of the borrowing costs applicable to the borrowings of the enterprise that are outstanding during the period, other than borrowings made specifically for the purpose of obtaining a qualifying asset. The amount of borrowing costs capitalised during a period should not exceed the amount of borrowing costs incurred during that period.

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0000579

As per the above, the borrowing costs that are capitalised are those that otherwise would have been avoided if the expenditure on the qualifying asset had not been made. This includes interest on borrowings made specifically for the purpose of obtaining the qualifying asset (specific borrowings) and costs of other borrowings that could have been repaid if expenditure on the asset had not been incurred (general borrowings).

- In certain situations, the acquisition or construction of qualifying assets may not be financed by a specific borrowing as envisaged in paragraph 10 above. In such situations, paragraph 12 provides guidance on the capitalisation of borrowings on general borrowings.
- Thus, in this case, borrowings costs on funds utilized only to the extent of expenditure in construction of new assets which require a substantial period of time to get ready for their intended use can be capitalised

4.4. Issue 4: Treatment of loan origination costs

- The Company has incurred certain costs like loan processing fee, lead arranger fee, and legal counsel or survey fees. As we understand, these represent fee paid to the lender for the activities associated with the inception of the loan, including gathering all the necessary documentation and also includes a charge required by a lender to lock-in specific terms on a loan at the time of application. Apart from these upfront fees, the company is charged the normal rate of interest.
- Borrowing costs are interest and *other costs incurred by an enterprise in connection with the borrowing of funds.*
- Paragraph 4 of AS 16 provides the nature of expenses which may be included as borrowing costs:
 - a) interest and commitment charges on bank borrowings and other short-term and long-term borrowings;
 - b) *amortisation of discounts or premiums relating to borrowings;*
 - c) *amortisation of ancillary costs incurred in connection with the arrangement of borrowings;*
 - d) finance charges in respect of assets acquired under finance leases or under other similar arrangements; and
 - e) exchange differences arising from foreign currency borrowings to the extent that they are regarded as an adjustment to interest costs. (emphasis added)
- As per (c) above, ancillary costs incurred in connection with the arrangement of borrowings should be amortised over the loan period. The above position is reiterated in ICAI's Guidance Note on Revised Schedule VI¹, as below:
"As per AS 16 Borrowing Costs ancillary borrowing costs and discount or premium relating to borrowings could be amortised over the loan period....."

¹ The Institute of Chartered Accountants of India had issued a Guidance Note on the Revised Schedule VI of the Companies Act 1956. The format of financial statements under the Companies Act 2013 is contained in Schedule III of the Act and is in line with the format under the Revised Schedule VI of the Companies Act 1956. Hence the Guidance Note is applicable to Schedule III of the Companies Act, 2013 also.

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0000580

- Expenses like loan processing fees, lead arranger's fees, legal counsel fees incurred specifically in respect of the borrowing should first be apportioned over the period of the loan and added to the interest cost of each period. Thereafter the total borrowing cost should be expensed or capitalized as discussed in para 4.3 above.

4.5. Issue 5: Accounting for Performance Guarantee to MIAL

- The guarantee provided to MIAL is in respect of a specific performance by MAFFFPL under its contract with MIAL. This guarantee provided by the Bank on behalf of the Company is in the nature of a Performance Guarantee and not an ancillary cost incurred in connection with a borrowing.
- The performance guarantee commission paid by the Company to its banks is therefore not in the nature of a borrowing cost and cannot be included in borrowing cost (which are then to be expensed or capitalized as discussed earlier).
- Accordingly, the guarantee commission is required to be accounted in accordance with the principles of accrual on a time proportion basis.
- Paragraph 6.4 of the ICAI's Guidance Note on format of financial statements states:

Implications of all instructions mentioned above can be illustrated by means of the following example. One of the line items to be presented on the face of the Balance Sheet under Current assets is "Cash and cash equivalents". The break-up of these items required to be presented by the Revised Schedule VI comprises of items such as Balances with banks held as margin money or security against borrowings, guarantees, etc. and bank deposits with more than 12 months maturity.

According to AS-3 Cash Flow Statements, Cash is defined to include cash on hand and demand deposits with banks. Cash Equivalents are defined as short term, highly liquid investments that are readily convertible into known amounts of cash and which are subject to an insignificant risk of changes in value. The Standard further explains that an investment normally qualifies as a cash equivalent only when it has a short maturity of three months or less from the date of acquisition. Hence, normally, deposits with original maturity of three months or less only should be classified as cash equivalents.

Further, bank balances held as margin money or security against borrowings are neither in the nature of demand deposits, nor readily available for use by the company, and accordingly, do not meet the aforesaid definition of cash equivalents. Thus, this is an apparent conflict between the requirements of the Revised Schedule VI and the Accounting Standards with respect to which items should form part of Cash and cash equivalents. As laid down in the General Instructions, Para 1 of Revised Schedule VI, requirements of the Accounting Standards would prevail over the Revised Schedule VI and the company should make necessary modifications in the Financial Statements which may include addition, amendment, substitution or deletion in the head/sub-head or any other changes inter se.

Accordingly, the conflict should be resolved by changing the caption "Cash and cash equivalents" to "Cash and bank balances," which may have two sub-headings, viz., "Cash and cash equivalents" and "Other bank balances." The former should include only the items that constitute Cash and cash equivalents defined in accordance with AS 3 (and not the

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Revised Schedule VI), while the remaining line-items may be included under the latter heading.

- Further, paragraph 8.8.4 of the Guidance Note also requires balances with banks held as margin money or security with banks to be disclosed separately.

Balances with banks to the extent held as margin money or security against the borrowings, guarantees, other commitments shall be disclosed separately

"Other bank balances" would comprise of items such as balances with banks to the extent of held as margin money or security against borrowings etc, and bank deposits with more than three months maturity. Banks deposits with more than more than twelve months maturity will also need to be separately disclosed under the sub-head 'Other bank balances'. The non-current portion of each of the above balances will have to be classified under the head "Other Non-current assets" with separate disclosure thereof

- Hence, the margin money deposit placed by the Company with its bank should be accounted 'other bank balances' and it should not be considered to be 'cash equivalent' in the financial statements prepared under Schedule III of the Companies Act 2013.

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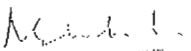
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5. Confidentiality and Disclaimer

- Our analysis is based on the completeness and accuracy of the facts conveyed to us. If any of the information provided to us is not entirely complete or accurate, it is imperative that we be informed immediately, as the inaccuracy or completeness could have a material effect on our conclusions.
- Our analysis is restricted to the questions referred to in Section 3 above. We have not analysed any other accounting matters.
- This analysis has been issued for the exclusive use of Mumbai Aviation Fuel Farm Facility Private Limited in line with our letter of engagement. No other person shall be entitled to place reliance on this analysis. It should not be copied or disclosed to any other third party, in whole or in part, without our prior written consent.
- Any changes to the accounting standards and related regulatory guidelines, which could also be retrospective, could have an effect on the validity of the information stated herein.
- We assume no obligation to update this analysis on any events subsequent to its issue, which may have a material effect on the information provided herein.
- We would advise you to discuss this matter with your statutory auditors also since our views are not binding on the statutory auditors.

Very truly yours


Sai Venkateshwaran
Partner

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राष्ट्रीय विमानपत्तन आर्थिक विनियामक प्राधिकरण
सफदरजुंग एयरपोर्ट, नई दिल्ली - 110003
प्राप्त
आवृत्ति नं० : 3544
तारीख : 29/1/15



11/1/2015
28/1/15

MAFFFL//SM/AERA/45

January 19, 2015

To,
The Secretary,
Airports Economic Regulatory Authority of India,
AERA Building,
Administrative Complex,
Safdarjung Airport,
New Delhi 110 003

Subject: Request for Tariff Approval for Mumbai Aviation Fuel Farm Facility Private Limited for providing fuelling services at CSI Airport, Mumbai.

Dear Sir,

This is further to our various letters on subject last resting with letter MAFFFL/SM/AERA/44 dated January 16, 2015. We are also thankful once again for giving an opportunity to meet you in person on January 19, 2015 and explaining the requirement of the approval of tariff for the Fuel Infrastructure charges. The same is reiterated below;

1. The Transfer deed, License Agreement, ITP Agreement, Interim operations agreement between the parties and MAFFFL were signed on 13.1.2015 and with same the existing facilities of Oil PSU's and MIAL are transferred to MAFFFL. MAFFFL has started the fuel farm operations effective 00.00 hrs. of 14.1.2015.
2. With the above all the expenditure with regards to the Fuel farm operations have to be arranged by MAFFFL only.
3. As advised earlier, MAFFFL shall appoint a Fuel farm operator, selected by way of competitive bidding through public tender. The L1 party emerged by way of public tender is BPCL. The order on same shall be placed with the approval of the Board. The board meeting has been planned on January 29, 2015. Thereafter the LOA shall be released and the party is expected to obtain the necessary approvals from DGCA etc., and is expected to start the independent operations by end of March 2015.
4. Till such time, the facilities shall be operated by the existing Oil PSU, IOCL, HPCL and BPCL and MAFFFL shall pay a charge to them for same. The charges paid shall be towards the operations only and all the charges related to the location like the land rentals, property tax etc., shall be to the account of MAFFFL. MAFFFL has entered into an

Page 1 of 3

Mumbai Aviation Fuel Farm Facility Private Limited
MIAL 2nd Floor, Terminal 1 B - Arrival, CSI Airport, Santacruz (E), Mumbai - 400099
Tel : +91 22 66852145 Email : info@mafffl.in Web : www.mafffl.in
CIN: U63000MH2010PTC200463

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interim tripartite agreement, between MAFFFL as the facility owner, IOCL, HPCL and BPCL as suppliers and IOCL, HPCL and BPCL as the fuel farm operators (of their respective locations). MAFFFL shall charge the suppliers the fuel infra charges as per the rates approved by AERA. It is also to inform that the charges will be raised after the approval of rates by AERA. The copy of the draft agreement was enclosed with the MYTP submission. (Annexure 6 - Interim Tripartite Fuel Farm Operator & Supplier Agreement, page 189-205) MAFFFL has entered into an interim tripartite agreement before the start of the operations.

5. MAFFFL requires urgent funds for the following:
 - a. requirements of statutory payments
 - b. fuel farm operator charges, license fee and rentals
 - c. day to day administrative expenses
 - d. Salaries and wages etc.
6. In the absence of approved tariff, MAFFFL is not able to do any financial closure and raise the funds to ensure smooth and uninterrupted operations of the fuelling operations at CSIA.
7. With regards to the reasonableness of the user agreements, it is to inform the following;
 - a. All the Supplier agreements will be same for all the Suppliers and will be in public domain. The points to be considered in the supplier agreement, as included in the tender document is enclosed.
 - b. The rates charges shall be approved by AERA and no discrimination of rates between users shall be made
 - c. The rates proposed have been agreed to by the present users. The consultation paper has already been submitted with the MYTP proposal. (Annexure 9, page 241-245)
 - d. The rate has been determined basis the building blocks of AERA. The submissions have also been made along with the MYTP proposal.
 - e. It is also to inform that as per the response to the CCI's query, the average cost of operation for BPCL/HPCL/IOCL for the year 2013-14 is about Rs 1054.30/KL. In relation to MAFFFL, the same works out to Rs 828/KL for the fuel infrastructure charges (proposed) and that of ITP charges of Rs 198/KL, totaling Rs 1026/KL.

View all above, we once again request for an immediate approval of the proposed tariffs. This will enable MAFFFL to achieve financial closure at the earliest and to ensure uninterrupted fuelling operations at CSIA.

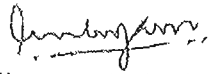


Page 2 of 3

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I would be happy to provide any further clarification, if so required by the Authority.

Yours Sincerely,



Shyam Mustyalwar
Chief Executive Officer,

Mumbai Aviation Fuel Farm Facility Private Limited

Enclosure : The points to be considered in the supplier agreement, as included in the tender document.



Multi Year Tariff Proposal for 1st Control Period (1 Apr 2011 to 31 Mar 2016)

Submitted on – 9th January 2015

Mumbai Aviation Fuel Farm Facility Private Limited
1/9/2015

1. Introduction

Mumbai Aviation Fuel Farm Facility Private Limited, a company registered under the Companies Act, 1956 and having registered office at 1st floor, Terminal 1B, Chhatrapati Shivaji International Airport, Mumbai – 400099, Maharashtra, India.

A meeting of National Facilitation Committee (NFC) aimed at resolving issues related to development of Chhatrapati Shivaji International Airport (CSIA) including oil facilities at CSIA was held at New Delhi on 09th March 2009 chaired by Cabinet Secretary, GoI. In the subsequent meeting chaired by Secretary, Ministry of Petroleum and Natural Gas (MoPNG) at Mumbai on 15th April 2009, specifically with regards to the oil facilities at CSIA, it was decided that a joint venture company (JVC) would be constituted comprising of all the Oil Public Sector Undertakings (Oil PSU) namely Indian Oil Corporation Limited (IOCL), Bharat Petroleum Corporation Limited (BPCL), Hindustan Petroleum Corporation Limited (HPCL) and Mumbai International Airport Private Limited (MIAL) for the purpose of managing the current aviation fuel facilities and creating an integrated aviation fuel facility at CSIA on an open access model. Based on the decisions taken in the aforesaid meeting, a MoU (Annexure 8) dated 30th September 2010 was executed between Oil PSUs and MIAL. The new integrated fuel facility is envisaged to be a crucial step towards airport development.

In line with above, a Joint Venture Company, viz Mumbai Aviation Fuel Farm Facility Private Limited (MAFFFL), will take over the current Fuel facilities and construct an integrated fuel farm along with necessary hydrants within a reasonable time. The License Agreement (Annexure 1) signed between MAFFFL and MIAL, for MAFFFL to operate the Integrated Facilities, is valid up to 2nd May 2036.

2. Background:

Currently all the Oil PSUs namely HPCL, BPCL and IOCL are operating from their respective facilities located at Sahar and Santacruz areas at CSIA. The planned Integrated Fuel Farm Facility will operate from a single point (i.e., at the site of the existing facilities of IOCL and HPCL near the Domestic terminal T1A, Santacruz) to bring in the efficiencies of the integrated operations. The existing facilities acquired from the Oil PSUs will be disposed-off once the Integrated Fuel Farm is operational.

MAFFFL had submitted the proposed transaction to the Competition Commission of India (CCI) and have received its approval vide order dated 29th September 2014. Subsequently MAFFFL has started preparing a detailed MYTP for providing fuelling service at the said Fuel

Farm at CSIA.

3. Transaction Structure:

After signing of the MOU, an Executive Committee (EC) was constituted comprising of representatives of all the three Oil PSUs and MIAL, which was tasked to conclude all the agreements between MIAL, Oil PSUs and MAFFFL and also decide on the various steps to operationalize MAFFFL. The Share Purchase and the Share Holders Agreements between the four shareholders (IOCL, BPCL, HPCL and MIAL) was signed on 6th March 2014. MIAL is granting MAFFFL the rights to design, develop, finance, operate and manage the Fuel Farm and to contract with third parties to undertake the functions of MAFFFL at CSIA, by way of License Agreement. The existing aviation fuel assets including the hydrant system of all the parties, at CSIA, will be transferred to MAFFFL by way of a Transfer Deed.

As described in the MoU, the transfer of all the rights, titles and interests in all the assets comprising the existing facilities from Oil PSUs and MIAL to MAFFFL will be done for a consideration equivalent to the replacement cost less depreciation of the existing facilities as agreed to between the shareholders. The ownership of pipelines connecting the refineries to aviation fuelling stations of the Oil PSUs/ integrated facility shall remain with the respective oil companies. As agreed to by the EC members the Replacement value of the current fuel farm facilities of Oil PSU's at CSIA, Mumbai was ascertained by Engineers India Ltd. (EIL). The replacement value as ascertained by EIL was depreciated based on life of facility, to arrive at the compensation to be paid by the MAFFFL to the PSUs. It was also agreed that MAFFFL will reimburse cost incurred by MIAL till date, pertaining to fuel hydrant system at this airport. This was envisaged under the MOU as MIAL had to commission the integrated terminal based on certain timeline and could not have waited for MAFFFL to be operationalized and start the project.

Based on agreement between EC members, a feasibility report for the integrated fuel facility was prepared to ascertain the feasibility. Fuel Infrastructure Charge (FIC) was computed based on AERA's regulatory building block approach.

EC in a meeting dated 3rd May 2013 decided that MAFFFL, through public tender will appoint a Fuel Farm Operator for managing the Fuel Farm Operations and two independent Into Plane (ITP) service providers for managing the ITP operations at CSIA. MAFFFL has subsequently floated public tender for appointment of ITP Operators on 10th April 2014. Bharat Stars Services Private Limited and Indian Oil Skytanking Limited have been selected as the two parties for providing ITP Operations at CSIA for a period of 10 years and extendable by 5 years. With regards to the Fuel farm operators, public tender for selection of the Operator been floated

on 18th October 2014 and is expected to be finalized in January 2015. The period of contract for the fuel farm operations shall be for a period of 5 years.

4. Regulatory Approach

AERA has issued direction dated 10th January 2011 under Section 15 of the AERA Act 2008 establishing AERA Guideline 2011 - Terms and condition for determination of Tariff of Service provided for Cargo Facility, ground handling and *Supply of Fuel to aircraft* (herein under referred to as “the guidelines”). As per clause 1.2 of the above said guidelines, applies to supply of fuel to the aircraft at a major airport.

As per the proviso to Clause 7.1 of said guidelines, in the event that a new Service Provider (s) is granted permission for providing Regulated Service (s) at a major airport, the Service Provider (s) shall, within two months of the date of grant of such permission, submit to the Authority for its consideration, a Multi Year Tariff Proposal in accordance with the guidelines.

Since the Fuel Farm established by MAFFFL comes under the said definition of new Service provider, MAFFFL is hereby making this application for approval of the proposed tariff for the said Fuel Farm.

As derived from the Clause 3.1 of the said Guidelines, MAFFFL understands that the Authority shall determine its approach to the regulation of the Regulated Service (s) based on three stage procedure as under:

- a) Materiality Assessment;
- b) Competition Assessment;
- c) Reasonableness of existing User agreements.

Further to that clause 3.2 states that, based on Authorities review of the above mentioned three stages, Authority shall determine its approach as:

‘(i) 'not material', the Authority shall determine Tariff(s) for Service Provider(s) based on a light touch approach for the duration of the Control Period, according to the provisions of Chapter V;

(ii) 'material but competitive', the Authority shall determine Tariff(s) for Service Provider(s) based on a light touch approach for the duration of the Control Period, according to the provisions of Chapter V;

(iii) 'material and not competitive' but where the Authority is assured of the reasonableness of the existing User Agreement(s), the Authority shall determine Tariff(s) for Service Provider(s) based on a light touch approach for the duration of the Control Period, according to the provisions of Chapter V; ..

(iv) 'material and not competitive' and where the Authority is not assured of the reasonableness of the existing User Agreement(s), the Authority shall determine Tariff(s) based on price cap approach for the duration of the Control Period. In such cases, the Authority shall determine the Aggregate Revenue Requirement according to Chapter III and determine Tariff(s) according to the provisions of Chapter IV ‘

We take this opportunity to assess MAFFFL's standing viz -a -viz the parameters stated in the Guidelines.

4.1. Materiality Assessment

As per the Clause 4.2 of the Guidelines, the materiality index for service provided for supplying fuel to the aircraft at major airport A is defined as

$$\text{Materiality Index (MI}_F\text{)} = \frac{\text{Fuel Throughput in Kilolitres at a major airport A}}{\text{Total Fuel Throughput in Kilolitres at Major Airports}} \times 100$$

‘Where the MI_F, as calculated above is 5% or more at a major airport, the service provided for supplying fuel to the aircraft at major airport A shall be deemed 'material'. If MI_F is below 5%, then service provided for supplying fuel to the aircrafts at major airport A shall be deemed 'not material'.’

The percentage share of total fuel off take at major airports, as per the AAI statistics and as mentioned in the Appendix II 1.3, are given below

Serial No.	Airport	Total Fuel Throughput FY 10 (KL)	% of Total Fuel Throughput at Major Airports

1	Mumbai	15,74,834	31.9%
2	Delhi	13,70,146	27.8%
3	Chennai	322,675	17.0%
4	Bangalore	174,644	9.2%
5	Kolkata	106,585	5.6%
6	Hyderabad	66,459	3.5%
7	Cochin	40,363	2.1%
8	Trivandrum	33,150	1.7%
9	Ahmedabad	22,675	1.2%
10	Pune	17,845	0.9%
11	Calicut	17,500	0.9%
12	Jaipur	6,209	0.3%
13	Guwahati	5,037	0.3%
14	Goa	4,377	0.2%
	Total	1,897,814	100%

Source: Guidelines, Appendix II 1.3

MI_F as calculated for Mumbai Airport in the above table is 31.97% which is clearly more than 5% cut-off. Therefore service provided by MAFFFL at Mumbai Airport is material.

4.2. Competition Assessment

As per Clause 5 of the Guidelines, the competition assessment for the Regulated Service (s) provided by the Service Provider (s) at major airports is defined as:

‘Where a Regulated Service is being provided at a major airport by two or more Service Provider(s), it shall be deemed ‘competitive’ at that airport. If a Regulated Service is provided by less than two Service Provider(s), it shall be deemed ‘not competitive’.

At Mumbai Airport, there is only one fuel service provider. Details of competitive facilities are provided below.

S. No	Details of Fuelling Service Providers at Mumbai Airport
1	MUMBAI AVIATION FUEL FARM FACILITY PRIVATE LIMITED

Clearly the number of service providers is not ‘two or more’; therefore service provided by MAFFFL at Mumbai Airport is not competitive.

As per the authority’s competition assessment framework, service provided by MAFFFL is ‘material but not competitive’; therefore the reasonableness of user agreements has to be ascertained by the Authority.

However, while there is no other Fuel Farm Facility at CSIA, MAFFFL by nature of its business cannot have any monopolistic advantage as it is committed to provide Fuel Storage Service to all oil suppliers on an open access basis

4.3. Reasonableness of User Agreements

As per Clause 6 of the Guidelines, the reasonableness of user agreements for the Regulated Service (s) provided by the Service Provider (s) at major airports is defined as:

“The Authority shall consider the existing User Agreement(s) as reasonable provided that:

6.1.1. The Service Provider submits existing User Agreement(s) between the Service Provider and all the User(s) of the Regulated Service(s), clearly indicating the tariff(s) that are agreed to between the Service Provider and the User(s) of the Regulated Service(s), and

6.1.2. The User(s) of the Regulated Service(s) have not raised any reasonable objections or concerns in regard to the existing User Agreement(s), which have not been appropriately addressed.

Provided that the Authority may in its discretion consider such other additional evidence regarding reasonableness of User Agreement(s), as it may deem fit.”

MAFFFL has provided the evidence of user consultation as well as the user agreements which help in ascertaining that the user agreements are reasonable. The user agreements are standard for all users and all users will pay the same tariff. As evidenced from the user consultation no concerns were raised by users.

Therefore the tariff should be regulated by the Authority under *Light Touch Approach* as per Chapter V of the Guidelines.

5. Tariff Proposal - Light Touch Approach

Confidentiality

In accordance with the proviso to clause 7.2 of the guidelines:

‘Provided that the Authority shall consider specific submission(s) from Service Provider(s) for not putting certain information in the public domain on grounds of such information being Confidential Information.’

MAFFFL has put in a request to the Authority to maintain the confidentiality of certain documents (as identified in this Multi Year Tariff Proposal as confidential) as this set of data is critical to the business of MAFFFL and availability of the same in the public domain would be detrimental to MAFFFL’s operations and cost competitiveness.

5.1. Consultation with stakeholders

5.1.1. Evidence of consultation

The stakeholders of MAFFFL are the Oil Companies supplying the fuel to the airlines.

As per Clause 11.2 of the said Guidelines, MAFFFL has initiated the user consultation process with all its stakeholders, in order to address all the concerns and issues faced by them regarding the process to be adopted for storage and handling of fuel, tariff to be levied and the quality of service provided. The summary of these consultations has been provided below in the subsequent paragraphs.

During the Stakeholder consultation MAFFFL made a presentation to all stakeholders covering in detail about the company, proposed plan and operations that would be carried out by MAFFFL.

Below are the extracts from the user consultation (Annexure 9):

Minutes of the Meeting held by Mumbai Aviation Fuel Farm Facility Private Limited (MAFFFL) with Aviation Fuel suppliers at Hindustan Petroleum Corporation Limited, Santacruz ASF, Mumbai on 8th January 2015 at 1400 hrs.

List of Participants:

S. No.	Name of Participants	Name of the organization
1	Mr. Shyam Mustyalwar	Mumbai Aviation Fuel Farm Facility Private Limited
2	Mr. Ravindra Mittal	Mumbai Aviation Fuel Farm Facility Private Limited
3	Mrs. Geeta Iyer	Mumbai Aviation Fuel Farm Facility Private Limited
4	Mr. G. Krishnakumar	Indian Oil Corporation Limited
5	Mr. P. J. Kavde	Bharat Petroleum Corporation Limited
6	Mr. Ranjeet Mundayur	Hindustan Petroleum Corporation Limited

The agenda for the meeting was:

1. Consultation on the Tariff for Fuel Infrastructure Charges (FIC) of INR 828 per kilolitre

Points discussed:

1. Mr. Mustyalwar started the meeting by stating the readiness of MAFFFL in taking over the existing facilities from respective Oil PSUs in following aspects –
 - a. Start of Operations –
MAFFFL is ready to start the operations from 12th January 2015
 - b. Status of transfer deed and license agreement –
The stamp duty of all the agreements including the transfer deed has been paid on 30th December 2014 and the registration is planned on 12th January 2015. Thereafter the facilities shall stand transferred to MAFFFL.
 - c. Registration for Shop & establishment –
Application for shop and establishment has been made on 7th January 2015 to the concerning authority.
 - d. Factory license –
Factory license application has been submitted by MAFFFL and is under consideration of the respective authority. However the license will be issued on surrendering of the existing licenses of the Oil PSUs. The same is planned to be done after the registration of the transfer deed.
 - e. BMC Storage & Factory License –
Applications for BMC's Storage and Factory License have been submitted by MAFFFL to the relevant authority (BMC) and are under consideration. However the license will be issued on surrendering of the existing licenses of the Oil PSUs. The same is planned to be done after the registration of the transfer deed.
 - f. PESO License –

Application is ready and will be submitted along with the copy of the transfer deed. The same is planned to be done after the registration of the transfer deed.

g. Status of the tender process for appointing the Fuel Farm Operator –

The price bid has been opened. The same shall be placed before the board for their approval. Subsequently the order will be placed with the L1 bidder.

2. Mr. Mustyalwar apprised the users that MAFFFL is approaching the Airport Economic Regulatory Authority with its Multi Year Tariff Proposal seeking approval on a Tariff for Fuel Infrastructure Charges of INR 828/- per kilolitre
3. Mr. Mustyalwar has given a presentation capturing the crucial aspects of the project as well as the basis of determination i.e. detailed regulatory building blocks calculation, of Fuel Infrastructure Charge of INR 828 per Kilolitre.

Questions raised by stakeholders –

1. Project cost –

On the enquiries with regards to capex the same is on the following basis –

- a) For the works carried out by MIAL on behalf of MAFFFL, the costs as certified by EIL are considered
- b) For the work said to be started, the basis is the valuation report by Mott McDonald.
- c) It was also brought out that the valuation report is as of February 2012 and is subject to revision.

2. O&M expenses –

On the enquiries with respect to O&M, it was explained that –

- a) Majority of the officers of MAFFFL are on deputation from Oil PSUs, hence the salaries and wages, including the deputation allowance paid by their respective organizations are reimbursed by MAFFFL
- b) The License fees to be paid to the Airport Operator is payable by MAFFFL
- c) Property tax and all other statutory dues which are considerable in amount (in Mumbai) is payable by MAFFFL

End of the minutes of meeting.

5.2. User Agreements

MAFFFL has attached the user agreements as Annexure 9. Agreements with all Oil Companies are standard and these agreements will be available in public domain.

6. Annual Revenue Requirement Calculation

As per the clause 7 and Authority's letter AERA/20019/CGF-G/2010-11/Vol.II dated 21st February 2011, MAFFFL is submitting all the details as per Appendix AI.2 for the Multi Year Tariff Proposal in Annexure 1.

6.1. Agreement for providing Regulated Service

MAFFFL has been granted permission to provide the service of fuel supply at the Mumbai International Airport by the Airport operator (MIAL) under a MoU signed on 30th September 2010. The MoU with the operator is attached as Annexure 8. The License agreement succeeding the MoU is attached as Annexure 3 which is planned to be registered on 13th January 2015.

6.2. Details of Integrated Fuel Farm

MAFFFL will construct the Integrated Fuel Farm at the identified site near the existing facilities of IOCL and HPCL near the Domestic terminal T1A, Santacruz. The Integrated Fuel Farm will be built on an area of approximately 31,500 square meters and will have a static storage capacity of 47,500 KL of ATF. The Facility will be ready for Operations by FY 2018.

6.3. Traffic Projections

MAFFFL had projected the traffic growth by studying the demand drivers for air traffic movements and resultant the fuel throughput at the Mumbai Airport.

The Traffic forecast provides an estimate of future demand for fuel throughput at CSIA (Chhatrapati Shivaji International Airport), Mumbai for the period FY 2015 to FY 2036 based on a current understanding of historic and future demand drivers.

Air Traffic Movements at CSIA

Historical air traffic movements at CSIA from are detailed below:

Year	Total Air Traffic Movements
2006	1,71,145
2007	2,01,780
2008	2,32,509

2009	2,27,514
2010	2,29,801
2011	2,42,651
2012	2,51,492
2013	2,44,499
2014	2,60,666
AAGR (1995-2014)	6%

Source: Airport Authority of India

CSIA Air Traffic Forecasts

MAFFFL has projected the future traffic considering the GDP growth rates and other demand drivers. The traffic is projected to grow at an average pace of 2% per annum.

Year	Total Air Traffic Movements
2015	267,950
2016	275,450
2017	282,384
2018	290,292
2019	298,430
2020	305,235
2021	310,487
2022	316,696
2023	323,030
2024	330,396
2025	336,081

Year	Total Air Traffic Movements
2026	342,802
2027	349,658
2028	357,631
2029	363,785
2030	371,060
2031	378,482
2032	387,112
2033	393,772
2034	401,648
2035	409,681
2036	419,022

6.4. Aggregate Revenue Requirement

MAFFFL has determined its aggregate revenue requirement in line with AERA's guidelines as set out under AI.2 procedure for preparing Multi Year Tariff Proposal (read with clause 7.1) under which clause AI.2.1 states that "The Multi Year Tariff Proposal shall clearly outline the Aggregate Revenue requirement for each tariff year based on these guidelines". Further to that, clause 8.2 and 8.3 of the said guidelines sets out in detail the methodology of determining/calculating Aggregate Revenue Requirement. The relevant extract is as follows:

"8.2 For Regulated Service(s) deemed 'material and not competitive' and where the Authority is not assured of the reasonableness of the existing User Agreement(s), the Authority shall calculate the Aggregate Revenue Requirement (ARR) for a given Control Period based on determination of the following Regulatory Building Block components:

8.2.1 Fair Rate of Return applied to the Regulatory Asset Base (FRoR x RAB)

8.2.2. Operation and Maintenance Expenditure (O)

8.2.3. Depreciation (D)

8.2.4. Taxation (T)

8.2.5. Revenues from services other than Regulated Service(s) (NAR)"

"8.3. The Aggregate Revenue Requirement for the Control Period (ARR) shall be expressed as under:

$$ARR = \sum (ARR_t) \text{ and}$$

$$ARR_t = (FRoR \times RAB_t) + D_t + O_t + T_t - NAR_t$$

Where t is the Tariff Year in the Control Period and ARR_t is the Aggregate Revenue Requirement for year t Estimate of required Fair Rate of Return"

The details of all computation for various regulatory building blocks have been covered in the subsequent section.

Aggregate Revenue Requirement	FY 15	FY 16
Aggregate Revenue Requirement (in INR Lacs)	4,692	10,129

6.5. Regulatory Building Blocks

6.5.1. Estimate of required Fair Rate of Return

The Fair Rate of Return (FRoR) as defined under AERA's Guidelines as per Clause AI.5.2 is the estimate of the weighted average cost of capital wherein the same can be computed based on the following formula. The FRoR has to be computed for the control period.

$$FROR = (g \times R_d) + ((1-g) \times R_e)$$

Where:

g is gearing (i.e. debt / debt + equity)

R_d is the pre-tax cost of debt

R_e is the post-tax cost of equity

Further the cost of equity has to be computed based on the CAPM formula and cost of debt is defined as the weighted average cost of existing and projected debts.

Cost of Equity

As per the Guidelines, Clause AI.5.2.3

'The Service Provider(s) shall submit its assessment of cost of equity based on Capital Asset Pricing Model.'

The CAPM model states that $R_e = R_f + \beta (R_m - R_f)$

Where:

R_f is the risk free rate

β is the market volatility

R_m is the market risk

Parameter	Basis of Assumption	Value
Risk Free Rate R_f	10 year yield for government bonds	8.86%
Market Volatility β	NA	Not Available
Market Risk R_m	Past 5 years CAGR for Sensex	18.99%

The Capital expenditure plan for the control period has been tabulated below:

Asset Class (in INR Lacs)	2014-15	2015-16
Civil Works	5,268	2,701
Roads	1,555	-
Plant & Machinery	2,524	738
Pipelines	14,878	1,580
ST Tanks	6,875	9,253
Computers & Data Processing Unit	15	-
Electrical Installations and Instrumentation	1,122	213
Vehicles	59	-
Borrowing Cost	465	-
Deadstock	3,829	-
Total	36,591	14,485

Further the guidelines states that the RAB for a year is the average of closing RAB for the current year and the previous year. The relevant extract is as follows:

“For any Tariff Year t , RAB shall be the average of the RAB value at the end of Tariff Year t and the RAB value at the end of the preceding Tariff Year $t-1$, as under:”

$$(RAB_t + RAB_{t-1}) / 2$$

The average closing RAB for each year of the control period along with its detail computation has been attached as Annexure 1.

6.6. Depreciation

As per the AERA guidelines the “depreciation rates shall be based on reasonable estimates of the useful economic life of the assets and may be referenced to the depreciation rates provided in the Companies Act, 2013 or to any other empirical evidence.”

The Residual value of the asset shall be considered as 10% and depreciation shall be allowed up to maximum of 90% of the original cost of the asset.

The name of the asset, category of asset, useful life and depreciation rates have been tabulated below:

	Asset Name	Depreciation Rate
1	Civil Works	3.2%

2	Roads	19.0%
3	Plant & Machinery	6.3%
4	Pipelines	3.2%
5	ST Tanks	3.8%
6	Computers & Data Processing Unit	31.7%
7	Electrical Installations and Instrumentation	9.5%
8	Vehicles	11.9%

Based on the above depreciation rates, the depreciation for the assets during the control period has been computed based on straight line basis. The depreciation for each year of the control period has been attached as Annexure 1.

6.7. Operation & Maintenance

The Operation and Maintenance (O&M) Cost mainly comprises of the following expenses:

- Payroll Expenses
- Administrative & General Costs
- Utilities & Outsourcing Costs
- MIAL's Revenue Share
- Repairs & Maintenance Costs

Since MAFFFL has no historical operations, the above expenses could not be projected based on the past audited figures hence they are projected based on our experience in fuelling, asset base created and the required service levels as defined in the SLAs. Further, the projection for the costs and the revenue for remaining control period are based on inflation i.e. weighted average of CPI Industrial worker and WPI. 50% weight has been allocated to both the indices.

Further, MAFFFL believes that any cost should not be released/ published in public domain.

7. Arguments & Prayers

MAFFFL believes that the proposed rates are justified on the following grounds:

Fuel Infrastructure Charges:

MAFFFL plans to start operations from 13th January 2015 and is submitting this petition for the approval of the Authority. In the light of the above, MAFFFL requests the Authority to

approve the tariffs as submitted hereunder and marked as Annexure 2 of this Multi Year Tariff Proposal.

form 1(b) - Competition Assessment (Ref: Sec AI.3 of Appendix 1)	
S No	Details of competitive facilities
1	Mumbai Aviation Fuel Farm Facility Private Limited

This document is the property of M/s Mumbai Aviation Fuel Farm Facility Private Limited, and submitted to AERA (Airports Economic Regulatory Authority). This document is extremely confidential and not for public disclosure.

Form F7: Format for identifying Initial Regulatory Asset Base (ref: Section AI.5 of Appendix I)						
Fixed Asset already commissioned as on 13 January 2015						
S. No.	Asset Name	Commission Date	Useful Life	Original Cost of Asset	Depreciation Rate	Accumulated Depreciation
1	Civil Works	13-Jan-15	30	3,896	3.17%	-
2	Roads	13-Jan-15	0	1,567	19.00%	-
3	Plant and Machinery	13-Jan-15	15	2,226	6.33%	-
4	Pipelines	13-Jan-15	30	12,426	3.17%	-
5	ST Tanks	13-Jan-15	25	3,169	3.80%	-
6	Computers & Data Processing Unit	13-Jan-15	3	15	31.67%	-
7	Electrical Installations and Instrumentation	13-Jan-15	10	1,115	9.50%	-
8	Vehicles	13-Jan-15	8	60	11.88%	-
	Total			24,474		-
9	Deadstock	13-Jan-15	Amortized over time	3,829	4.71%	-
	Grand Total			28,303		

All numbers in INR Lacs

This document is the property of M/s Mumbai Aviation Fuel Farm Facility Private Limited, and submitted to AERA (Airports Economic Regulatory Authority). This document is extremely confidential and not for public disclosure

Form F10 (e) : Additional Capital Projects Summary (Ref: Section AI 5 of Appendix I)			
	Particulars	Forecast WIP Assets	
		Tariff Year 1	Tariff Year 2
E	<i>Opening WIP Assets</i>		
	<i>Civil Works</i>	-	-
	<i>Roads</i>	-	-
	<i>Plant and Machinery</i>	-	-
	<i>Pipelines</i>	-	-
	<i>ST Tanks</i>	-	-
	<i>Computers & Data Processing Unit</i>	-	-
	<i>Electrical Installations and Instrumentation</i>	-	-
	<i>Vehicles</i>	-	-
	<i>Deadstock</i>	-	-
F	<i>Additions- New WIP</i>		
	<i>Civil Works</i>	1,442	4,143
	<i>Roads</i>	-	-
	<i>Plant and Machinery</i>	329	1,067
	<i>Pipelines</i>	2,603	4,183
	<i>ST Tanks</i>	3,894	13,147
	<i>Computers & Data Processing Unit</i>	-	-
	<i>Electrical Installations and Instrumentation</i>	20	233
	<i>Vehicles</i>	-	-
	<i>Deadstock</i>	-	-
G	<i>WIP Capitalization</i>	Nil	Nil
H	<i>Closing WIP Assets</i>		
	<i>Civil Works</i>	1,442	4,143
	<i>Roads</i>	-	-
	<i>Plant and Machinery</i>	329	1,067
	<i>Pipelines</i>	2,603	4,183
	<i>ST Tanks</i>	3,894	13,147
	<i>Computers & Data Processing Unit</i>	-	-
	<i>Electrical Installations and Instrumentation</i>	20	233
	<i>Vehicles</i>	-	-
	<i>Deadstock</i>	-	-

All numbers in INR Lacs

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Form F12(a) : Historical Aircraft Movements(Ref: Section AI 5 of Appendix I)	
Year	Total ATMs
2005-2006	1,71,145
2006-2007	2,01,780
2007-2008	2,32,509
2008-2009	2,27,514
2009-2010	2,29,801
2010-2011	2,42,651
2011-2012	2,51,492
2012-2013	2,44,499
2013-2014	2,60,666

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Form F12(c) : Projected Aircraft Movements (Ref: Section AI 6 of Appendix I)	
Year	Total ATMs
2014-2015	267,950
2015-2016	275,450
2016-2017	282,384
2017-2018	290,292
2018-2019	298,430
2019-2020	305,235
2020-2021	310,487

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Form F13 (b) - Historical and Projected revenues from services other than Regulated Services (ref: Section AI.7 of Appendix I)					
S.N.	Particulars	Last available audited year	Financial Year before Tariff Year 1	Tariff Year 1	Tariff Year 2
A	Revenue from Services other than Regulated Services				
1	Revenues from Fuel Infrastructure Charges	-	-	2,551	12,270
2	Revenues from.....	-	-	-	-
3	Revenues from.....	-	-	-	-
B	Other Revenues	-	-	-	-
1	Revenues from Interest Income	-	-	-	-
2	Revenue from ITP Revenue Share & Tender Award Cost	-	-	237	185
	Total Revenues	-	-	2,787	12,455

All numbers in INR Lacs

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Form F14(a) : Annual Tariff Proposal for Tariff Year 1 - Format for Providing information on EMAY (Ref: section A18 of Appendix I)		
S. No	Particulars	For Tariff Year 1
1	Yield per Unit	828

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Mumbai Aviation Fuel Farm Facility Pvt. Ltd.
Multi Year Tariff Proposal for Fuel Farm
January 2015

9. Annexure 2: Schedule of provisional charges

Form - 14(b)

**TARIFF FOR FUEL INFRASTRUCTURE CHARGES (FIC) AT INTEGRATED FUEL FARM
BUILT, MANAGED AND OPERATED BY MUMBAI AVIATION FUEL FARM FACILITY PVT LTD AT MUMBAI
AIRPORT
EFFECTIVE FROM 12TH JANUARY, 2015 AND VALID TILL 31ST MARCH, 2016**

S. No.	Charges	Rate	
1	Fuel Infrastructure Charges (FIC)	828	INR per Kiloliter



COMPETITION COMMISSION OF INDIA
(Combination Registration No. C-2014/04/164)

29.09.2014

Notice u/s 6 (2) of the Competition Act, 2002 given by:

- Mumbai International Airport Private Limited;
- Indian Oil Corporation Limited;
- Bharat Petroleum Corporation Limited;
- Hindustan Petroleum Corporation Limited; and
- Mumbai Aviation Fuel Farm Facility Limited

Order under Section 31(1) of the Competition Act, 2002

1. On 3rd April 2014, the Competition Commission of India ("Commission") received a notice under sub-section (2) of Section 6 of the Competition Act, 2002 (hereinafter referred to as the "Act") relating to the proposed combination between Mumbai International Airport Private Limited ("MIAL"), Indian Oil Corporation Limited ("IOCL"), Bharat Petroleum Corporation Limited ("BPCL"), Hindustan Petroleum Corporation Limited ("HPCL") (IOCL, BPCL and HPCL are hereinafter collectively referred to as the "Oil PSUs") and Mumbai Aviation Fuel Farm Facility Limited ("MAFFFL") filed by MIAL, IOCL, BPCL, HPCL and MAFFFL (hereinafter collectively referred to as the "Parties"). The proposed combination pertains to creation of a joint venture by IOCL, HPCL, and BPCL along with MIAL in MAFFFL. The said joint venture is proposed to be created to construct and manage an integrated fuel facility at Chhatrapati Shivaji International Airport, Mumbai ("CSIA" or "Mumbai Airport").

The Oil PSUs are, *inter alia*, engaged in refining, production and marketing of petroleum and related products including petrol, diesel, gas, aviation turbine fuel ("ATF"), and petrochemicals. IOCL supplies ATF and owns and operates ATF fuelling infrastructure at over 80 airports in the country. As a joint venture partner in the companies namely, Delhi Aviation Fuel Facility Private Limited ("DAFFFL") and Indian Oil Skytanking Limited ("IOSL"), IOCL, also partially owns and operates





COMPETITION COMMISSION OF INDIA
(Combination Registration No. C-2014/04/164)



infrastructure at Terminal 3, Indira Gandhi International Airport and at Kempegowda International Airport, Bengaluru respectively. BPCL, *inter alia*, supplies ATF through its 36 aviation service stations at all the major airports in the country. It renders Into-Plane services to leading domestic and international airlines through a joint venture company, namely, M/s Bharat Stars Services Private Limited (“BSSPL”). HPCL is stated to own and operate 30 aviation service facilities in India for supply of ATF to its customers.

3. MIAL is the airport operator and presently has no role in supplying ATF to aircrafts. It has the exclusive right and authority to *inter alia* operate, manage and develop Mumbai Airport/CSIA and contract with third parties pursuant to the Operation, Management and Development Agreement, dated 4th April 2006, entered into between Airports Authority of India (“AAI”) and MIAL (“OMDA”).
4. MAFFFL was incorporated by MIAL in the year 2010 as its fully owned subsidiary company. It has been stated by the Parties that in-principle decision regarding creation of MAFFFL was taken in a meeting of the National Facilitation Committee (“NFC”) held under the chairmanship of Secretary, Ministry of Petroleum and Natural Gas, Government of India, in March 2009. MAFFFL had been incorporated specifically in order to establish an integrated fuel farm facility at the Mumbai Airport.
5. The proposed combination relates to formation of a joint venture (JV) in MAFFFL by IOCL, BPCL, HPCL and MIAL in terms of the Shareholders Agreement (“SHA”) entered into among the Parties on 6th March 2014. Post combination, it is proposed that:

- Each of the JV partners would have 25 per cent shareholding in MAFFFL. MAFFFL will own the existing fuel facilities at Mumbai Airport, modify the existing fuel infrastructure owned by the Oil PSUs to create an integrated fuel facility and operate it after commissioning.





COMPETITION COMMISSION OF INDIA
(Combination Registration No. C-2014/04/164)



- MAFFFL, as the owner of the facilities, will only be responsible for receiving ATF from the ATF suppliers, storing, handling and delivering the same to the aircrafts of the respective airlines, either on its own or through an operator selected by way of a competitive bidding process.
6. The proposed combination falls under Section 5 of the Act.
7. In terms of Regulation 14 of the Competition Commission of India (Procedure in regard to the transaction of business relating to combinations) Regulations, 2011 (hereinafter referred to as “Combination Regulations”), vide letter dated 11th April 2014, the Parties were required to remove certain defects and provide information/document(s) latest by 21st April, 2014. The Parties filed their reply on 24th April, 2014 after seeking an extension. In terms of sub-regulation (4) of Regulation 5 and sub-regulation (2) of Regulation 19 of the Combination Regulations, vide letter dated 25th April 2014, the Parties were required to provide certain additional information by 1st May 2014. After seeking extension, the Parties filed the reply on 12th May 2014. Vide letter dated 13th May 2014, the Parties were required to provide further additional information by 21st May 2014. After seeking extension, the Parties filed their reply on 22nd May 2014. Further, vide letter dated 27th May 2014, the Parties were required to provide certain additional information by 30th May 2014, the reply of which was filed by them on 3rd June 2014. Vide letter dated 6th June 2014, the Parties were required to provide certain clarifications and additional information by 10th June 2014, the reply to which was filed by due date. Furthermore, vide letter dated 20th June 2014, the Parties were required to provide certain clarifications and additional information by 30th June 2014. However, the Parties filed their reply on 7th July 2014 after seeking extension in this regard.
8. In terms of Regulation 34 of the Combination Regulations, letters each dated 12th May 2014, were sent to Airports Economic Regulatory Authority (“AERA”) and Petroleum and Natural Gas Regulatory Board (“PNGRB”), to seek comments on certain issues relating to proposed combination. In terms of sub-regulation (3) of Regulation 34 of the





COMPETITION COMMISSION OF INDIA
(Combination Registration No. C-2014/04/164)



the Combination Regulations, letters were also sent to Reliance Industries Limited ("RIL"), Essar Oil Limited ("Essar") and Shell MRPL Aviation Fuels and Services Ltd. ("Shell MRPL") (RIL, Essar and Shell MRPL hereinafter collectively referred to as the "Private Oil Cos.") for seeking their comments/views on the proposed combination.

9. The Commission considered the details provided in the notice, replies furnished by the Parties to the queries of the Commission, comments of the Private Oil Cos. and the information available in public domain relating to the proposed combination in its meeting held on 20th June 2014, 3rd July 2014 and 8th July 2014. In this regard, the Commission was not satisfied with the plea of the Parties that the proposed combination will provide impetus to the market for ATF supply in Mumbai Airport and formed a *prima facie* opinion that the proposed combination is likely to cause appreciable adverse effect on competition in the relevant market as defined by the Parties i.e. market for supply and distribution infrastructure necessary to supply ATF to aircrafts within the Mumbai Airport.
10. The Commission decided to issue a show cause notice to the Parties in terms of sub-section (1) of Section 29 of the Act as to why investigation in respect of the proposed combination should not be conducted in its meeting held on 8th July 2014. Accordingly, a show cause notice ("SCN") under sub-section (1) of Section 29 of the Act was issued to the Parties on 17th July 2014 directing them to respond in writing within thirty days of the receipt of the notice.
11. The Parties filed the response to the SCN on 19th August 2014. Although, due date for submitting the response was 16th August 2014. However, since 16th to 18th August 2014, were public holidays, the Parties submitted the response to the SCN on 19th August 2014 ("the Response").
12. The Commission considered the information available on record including the Response in its meeting held on 27th August, 2014.





COMPETITION COMMISSION OF INDIA
(Combination Registration No. C-2014/04/164)



- 13.1 As regards the efficiencies of the open access fuel farms especially with reference to the Mumbai Airport, the Parties have submitted in the Response that the proposed combination would result in reduced infrastructure charges as compared to those presently incurred individually by the ATF suppliers. It is also stated that the proposed combination would reduce burden on limited land resources available at Mumbai Airport. Further, as the integrated fuel farm facility is to work on open access and arm's length basis, this would provide an opportunity to other ATF suppliers to sell ATF at Mumbai Airport and thus, increase the competition. As stated by the Parties absent the proposed combination, other ATF suppliers would have to go through the entire process for creation of infrastructure after seeking specific regulatory approvals and it is only after creation of integrated fuel farm facility that the other ATF suppliers would be able to supply ATF at Mumbai Airport. It has been submitted by the Parties that, while offering a wide choice of ATF suppliers to the airlines, such a model of integrated fuel farm facility could also trigger competition among the oil companies for supply of fuel at lesser rates.
- 13.2 In this regard, the Commission noted that ATF can be transported from refineries / terminals / depots to aviation fuel stations at the airports through various modes such as pipelines, rail or trucks depending on the infrastructure available ("Off-site"). The Off-site infrastructure is one part of the overall ATF supply chain and accordingly, ATF suppliers may have collaborations / tie ups with the other ATF suppliers for renting Off-site infrastructure. ATF which is supplied to an airport is then stored and transported to the aircraft ("On-site"). ATF suppliers themselves undertake fuelling operations at airports where no integrated fuel farms are under operation. At airports with integrated fuel farms operating on open access basis, independent operators are selected through competitive bidding for the management and operation of the farm. Operators selected for fuelling of aircrafts are known as 'Into Plane Service Providers'.
- 13.3 The Commission observed that an aviation fuel farm or depot is a facility at an airport for receipt, storage, handling and delivery of aviation fuel to aircrafts.





COMPETITION COMMISSION OF INDIA
(Combination Registration No. C-2014/04/164)



farm typically has product receipt facilities, storage tanks, pumps, filters and delivery facilities through a hydrant system or refuellers. An open access system allows qualified ATF suppliers to access and use the fuel farm facility on a non-discriminatory basis and enables air carriers to freely select the ATF suppliers. As per the information given in the notice, open access systems are now prevalent in Delhi, Bangalore and Hyderabad airports. As per their submissions, the Parties seek to create an open access aviation fuel farm at Mumbai Airport by taking over the existing fuel facilities currently owned by the Oil PSUs; disposing off the redundant facilities; modifying existing fuel infrastructure to create the integrated facility, and thereafter, operating it either on their own or through an operator selected by way of competitive bidding.

- 13.4 It is observed in this regard that the AERA regulates tariffs in relation to aeronautical services including the service for supplying fuel to the aircrafts at an airport.
14. The following paragraphs describe the specific concerns of the Commission and the clarifications submitted by the Parties in respect of these concerns expressed in the SCN.
- 15.1 In the SCN, the Commission had expressed its view that non-availability of Off-site infrastructure facilities may constrain the ability of new ATF supplier to operate and compete with Oil PSUs at the Mumbai Airport. The Commission also observed that the existing *inter se* arrangement between the Oil PSUs whereby IOCL has been extended the facility of buying and drawing ATF from two refineries of BPCL and HPCL for supplying ATF at Mumbai Airport is likely to distort the level playing field in ATF supply.
- 5.2 As per the submissions in the Response, the Off-site infrastructure (i.e. pipelines) may not constrain the ability of a new ATF supplier to operate at Mumbai Airport owing to the fact that ATF suppliers at other airports including at Delhi, Bangalore and Hyderabad, are transporting ATF to the airports through both tank trucks and pipelines. The Parties have submitted that the pipelines are connected to fueling infrastructure at





COMPETITION COMMISSION OF INDIA
(Combination Registration No. C-2014/04/164)



the Mumbai Airport on one end and to HPCL's and BPCL's respective refineries at the other, as a result of which allowing access to any other ATF supplier is not physically possible.

- 15.3 As regards, the issue of existing arrangements between the Oil PSUs, the Parties have submitted that the product sharing arrangements among the Oil PSUs are entered into on need and mutual exchange/reciprocal basis at an all-India level. It has been further submitted by the Parties that a new ATF supplier may also negotiate with BPCL and/or HPCL for a similar product sharing arrangement subject to commercial considerations. It is submitted by the Parties that at present, the Oil PSUs have a similar tie up with a non-PSU entities for product sharing with respect to sale of motor spirit and high speed diesel, at feasible locations.
- 16.1 In the SCN, the Commission had observed that certain restrictive clauses of SHA, viz., restriction on share transfers for a period of five years, obligation on the Oil PSUs to together hold minimum fifty-one per cent of the share capital of MAFFFL at all times, right of first refusal ("RoFR") to non-selling shareholders and prior written consent from each of the non-selling shareholders in case the prospective transferee was their competitor, indicated an intention of the Parties to control operations and management of MAFFFL in perpetuity. The Commission viewed that such restrictions in the SHA reinforced the likelihood of conflict of interest and the possibility of foreclosure due to dual role of Oil PSUs as ATF supplier and owner of the integrated fuel farm facility.
- 16.2 As regards the restriction on share transfers for a period of five years, the Parties have submitted that at the initial stages when MAFFFL would be setting up an integrated fuel farm facility, the experience and capability of the Oil PSUS in constructing, commissioning and managing integrated fuel farm facility will be critical as well as helpful. Further, by stipulating that the existing shareholders would continue as part of MAFFFL for a period of five years, an attempt was being made to ensure that MAFFFL's policies continue to be influenced by the Government's mandate and that the transparency is maintained in operations. The Parties have also submitted that the





COMPETITION COMMISSION OF INDIA
(Combination Registration No. C-2014/04/164)



stipulated five year period could be justified when viewed in the light of gestation period required for the recoupment of investment by MAFFFL's shareholders.

- 16.3 In this regard, the Parties have voluntarily in good faith, on an in-principle basis, pending approval from their respective board of directors, offered to amend the SHA to the effect that clause 10.2¹ of the SHA and all references to the term "lock-in period" in the SHA shall stand deleted by way of an amendment agreement to the SHA. The Parties have agreed further to seek board approval for such an amendment, within a period of three months, from the date of the Response.
- 16.4 As regards the Commission's concern expressed in the SCN regarding obligation on the Oil PSUs in SHA to together hold minimum fifty-one per cent of the share capital of MAFFFL at all times, the Parties have submitted that such equity stake, whether held by the Oil PSUs or by any other ATF supplier, will have no impact on the supply of ATF at the Mumbai Airport, as MAFFFL would continue to treat all ATF suppliers, whether public or private, as equal players. The Parties have also laid stress on the point that Oil PSUs are not 'selling' but are only 'transferring' their infrastructure to MAFFFL and hence, it is justified that they participate in MAFFFL's management. The Oil PSUs, being the Government owned companies are also required to ensure that distribution and marketing of ATF is done in a manner which best serves public interest.
- 16.5 The Parties have also submitted that without prejudice to their rights and voluntarily in good faith, on an in-principle basis, pending approval from the board of directors of each of the Oil PSUs, they are willing to delete clause 10.3² of the SHA in its entirety,

¹ Clause 10.2 of the SHA:

"No shareholder shall be permitted to transfer any shares held by it in the Company for a period of 5 years from the Closing Date" (the "Lock-in Period")"

² Clause 10.3 of the SHA:

"Subsequent to the expiry of the Lock-in Period, any Shareholder may:

10.3 (i) Subject to compliance with the requirements set forth in this Section 10, Transfer it to a third Party in accordance with the procedure set forth in Section 10.4; and





COMPETITION COMMISSION OF INDIA
(Combination Registration No. C-2014/04/164)



thereby stipulating no minimum shareholding requirements, in order to allay the concerns the Commission. The Parties further agree that board approval for such an amendment will be sought within a period of three months from the date of the Response.

- 16.6 As regards the restrictive clause in the SHA pertaining to RoFR and prior written consent from each of the non-selling shareholders in case the prospective transferee is their competitor, the Parties have submitted that this is a standard clause in almost all negotiated agreements pertaining to closely held companies, whereby the Parties, who run any commercial activity in the form of a joint venture, would prefer to operate with only the known promoters/ individuals with whom there is a commonality of purpose in the business activity. However, with respect to the provision stated in clause 10.4(v)(a)³ in the SHA regarding prior written consent from each of the non-selling shareholders, the Parties, pending approval from their respective board of directors, have committed to delete the said clause in the SHA implying that there would be no restriction on transfer of shares to a competitor provided that the RoFR process as provided in the SHA had been followed. The Parties have agreed that the board approvals for this purpose will be sought within a period of three months from the date of the Response.

- 17.1 In the SCN, the Commission had expressed its concern that post combination, the Oil PSUs would act in dual capacity, one as being the shareholders in MAFFFL and the other in their role as ATF suppliers at the Mumbai Airport. The Commission had stated that it was evident from the various clauses of the SHA that the Oil PSUs would actively participate in the management of MAFFFL through their representatives on the

10.3(ii) Subject to compliance with the requirements set forth in Section 10.5, Transfer any Shares held by it to its Affiliate,

"Provided that notwithstanding, and subsequent to the completion of any such Transfer and subject to the provisions of Section 17.3, Oil PSUs shall be obliged to continue to hold at all times during the terms of the Concession, in aggregate, at least 51% of the issued and paid-up equity share capital of the Company"

³ Clause 10.4(v)(a) of the SHA:

"In case such third party is a "Competitor" (as defined in Section 10.6 below) of any non-Selling Shareholder, then sale shall be effected only with the prior written consent of such non-Selling Shareholder."





COMPETITION COMMISSION OF INDIA
(Combination Registration No. C-2014/04/164)



board and that there was a possibility that the Oil PSUs could foreclose access to the infrastructure essential to supply ATF at the Airport. The Commission in this regard also observed that the conflict of interest could be an impediment to the operationalization of the joint venture on non-discriminatory and open access basis.

- 17.2 The Parties have submitted that by way of the proposed combination, the ownership of all the existing fuelling infrastructure within the premises of the Mumbai Airport would be transferred to MAFFFL. Further, the Parties have stated that the integrated fuel farm facility and the infrastructure could be used by any of the ATF suppliers, in an open access and arm's length basis, upon payment of a regulated common fee. The Parties have stated that the equitable distribution of shareholding and rights amongst its shareholders would further ensure that none of the shareholders could influence MAFFFL to their advantage. The various agreements between the shareholders of MAFFFL also contemplate that MAFFFL will operate with all the ATF suppliers on an arm's length basis only.
- 17.3 The Parties have stated further that MAFFFL will not be privy to any of the negotiated agreements between the ATF suppliers, which include Oil PSUs, and airline operators. Further, it is submitted by the Parties that as regards providing Into-Plane Services, clause 10.4.4(i) of the Into-Plane Fuelling Service Agreement requires MAFFFL or its sub-contractors providing Into-Plane Services to act on a non-discriminatory basis. The Parties have stated that there are sufficient checks and balances to ensure that post combination MAFFFL shall operate in an independent and non-discriminatory manner and on an arm's length basis with each of the Oil PSUs.
- 17.4 In this regard, the Parties have stated that they will set up a Joint Co-ordination Committee ("JCC"), in line with the JCCs functioning at the New Delhi and Bengaluru airports, which shall ensure effective and efficient performance of the proposed fuel farm facility and Into-Plane Services at the Mumbai Airport. As stated by the Parties, the JCC would, *inter alia*, consist of the representatives from the fuel farm operator who would be appointed by MAFFFL through a competitive bidding process; airport operator; MAFFFL; Into-Plane Service providers; Oil PSUs; private





COMPETITION COMMISSION OF INDIA
(Combination Registration No. C-2014/04/164)



domestic and international air carriers. The Parties have submitted that the JCC would, *interalia*, review the operation of the open access system, to ensure that the ATF suppliers and air carriers are treated fairly and equitably.

- 18.1 In the SCN, the Commission had also expressed a concern that reduction in storage capacity available in Mumbai Airport from the present 49,000 KL to 38,000 KL post combination, is likely to distort the level playing field on account of possible non-availability of storage capacity to non-Oil PSU ATF suppliers.
- 18.2 In this regard, the Parties have submitted in the Response that based on the present and the projected demand for ATF at the Mumbai Airport in the next four to five years, the storage of 38,000 KL would provide for more than seven days of ATF requirement. The Parties have also submitted that depending upon the business of each individual ATF supplier, the storage capacity of 38,000 KL shall be shared amongst all the ATF suppliers on equal terms and there will be no discrimination between the suppliers for number of days of storage. Hence, there is no possibility of any distortion of level playing field pursuant to the proposed combination. It has been further submitted by the Parties that based on the agreements entered into with the ATF suppliers, MAFFFL shall monitor the inventory levels of ATF on a daily basis and that ATF suppliers, based upon their contracts and the actual daily upliftment by the airlines, shall be in close touch with MAFFFL, on a daily basis, to ensure placement of adequate quantity of their ATF in the proposed integrated fuel farm facility.
- 18.3 The Parties, through the Response, have also submitted that, pending approval from the board of directors of each of the Oil PSUs, they stand committed to construct all the five tanks in the first phase of construction itself for a total capacity of 47,500 KL. The Parties have submitted that they agree that the board approvals in this regard will be sought within a period of three months from the date of the Response.
9. The Commission has also noted that the parties in addition to the commitments, as detailed above, have also agreed in the Response to provide following safeguards in operation of MAFFFL, on its commissioning, as follows:





COMPETITION COMMISSION OF INDIA
(Combination Registration No. C-2014/04/164)



- (a) MAFFFL shall publish on its website, from the date of commissioning of the integrated fuel farm facility, the following details:-
- (i) tariff applicable (i.e., the AERA regulated fare) for various services, including discounts offered, if any;
 - (ii) maximum storage capacity used by various ATF suppliers vis-à-vis the allotted monthly capacity, on a monthly basis;
 - (iii) any change in availability of storage capacity on account of scheduled maintenance, cleaning etc shall be published at least one month in advance;
 - (iv) procedure for access to the integrated fuel farm facility, agreements to be entered into, criteria for assignment of storage capacity to an ATF supplier, etc.;
 - (v) template of the standard form agreements to be entered into by MAFFFL with ATF suppliers with MAFFFL and Into-Plane Service providers, as well as any revisions or amendments thereto (on a no-names basis); and
 - (vi) rates approved by AERA will be displayed on every revision.
- (b) The Parties shall :-
- (i) incorporate a clause in the standard supplier agreement to the effect that each ATF supplier shall comply with competition law principles in relation to the usage of the integrated fuel farm facility;
 - (ii) set up a Joint Co-ordination Committee; and
 - (iii) communicate (in writing) to the ATF suppliers, any deviation from the terms and conditions provided in the standard form agreement. The reasons for denying any ATF supplier the right to supply ATF at the Mumbai Airport shall also be communicated in writing to the concerned ATF supplier.
- (c) The Parties shall put in place adequate monitoring mechanisms and shall ensure that the proposed integrated fuel farm facility operates in complete consonance with the principles of competition law and fairness.





COMPETITION COMMISSION OF INDIA
(Combination Registration No. C-2014/04/164)



20. The Commission has noted that the supply of ATF from the refineries to the airports involves various steps, such as supply of ATF from the refineries to the airports; storage at the airports in tanks and distribution which entails delivery of ATF from the storage to the aircrafts. These steps are linked and constitute the supply chain necessary for the ATF supply to the aircrafts at the airports. Therefore, each of the steps necessary to supply ATF to the Mumbai airport could constitute a market or be treated as related markets. However, in this regard the Commission has noted that the Off-site infrastructure owned by the Oil PSUs are connected on end to end basis from refineries to Mumbai Airport and, therefore, it is not physically feasible to allow access to the Off-site infrastructure to any other ATF supplier. The Commission has, therefore noted that the relevant market in respect of the proposed combination would be the infrastructure facilities at the CSIA for the receipt, storage, handling and delivery of the aviation fuel to the aircrafts at the airport.
21. On the basis of submission of the Parties, the Commission has also noted that for management of On-site infrastructure of MAFFFL, an operator would be appointed through a competitive bidding process, whereas two operators would be selected for Into Plane Services.
22. The Commission noted that Mumbai Airport is a land constrained airport and the integration of individual facilities of the Oil PSUs, post combination, would lead to an optimum usage of the land. The Commission noted that the integrated fuel farm facility would work on an open access basis and the charges for the operation of which would be regulated by AERA. The Commission also noted that the proposed fuel farm facility is stated to bring in reduction in the infrastructure charges to be paid by the ATF suppliers vis-à-vis the present charges for operation of the individual facilities. The Commission took note of the fact that taking into consideration the examples of fuel farm facilities operating at the other airports it is only after the creation of such facilities at those airports that the ATF suppliers other than the Oil PSUs entered the market to supply ATF. Accordingly, the Commission is of the opinion that creation of such facility could provide similar benefits to all the users of such facility at the Mumbai Airport. The Commission also observed that as the proposed





COMPETITION COMMISSION OF INDIA
(Combination Registration No. C-2014/04/164)



about integration and upgradation of the existing fuelling infrastructure and operations at the Mumbai Airport, there could be competition enhancing benefits associated with the creation of such a facility, absent which, it could be practically difficult for new entrants to duplicate the infrastructure for fuelling the aircrafts, thus resulting in a status quo condition with respect to the number of ATF suppliers at the airport.

23. As regards certain clauses of the SHA as mentioned in preceding paragraphs in respect of which the Commission had expressed its concern and discussed above in detail, the Commission considered all the arguments put forth by the Parties in this regard. The Commission is of the opinion that with the commitments offered by Parties regarding these concerns, participation of non-Oil PSU player (s) in the ownership of the MAFFFL would be possible in future. The Commission is also of the opinion that the with the commitment regarding increase in capacity, the concern arising therefrom would be alleviated. The Commission also took note of additional voluntary commitments submitted by the Parties. The Commission is of the view that such additional commitments offered by the Parties would enhance transparency and promote arm's length distance in the operations of MAFFFL.
24. Accordingly, the Commission directs each of the Parties to pass requisite board resolutions, approving the following voluntary commitments, as offered by them vide the Response and as discussed above in detail, within three months from the date of this order:
 - a) Amendment of the SHA to the effect that clause 10.2 of the SHA and all references to the term "lock-in period" in the SHA are deleted by way of an amendment agreement to the SHA.
 - b) Deletion of clause 10.3 of the SHA in its entirety, thereby removing stipulation of minimum shareholding requirements of the Oil PSUs.
 - c) Amendment of the SHA to the effect that clause 10.4(v)(a) will be deleted in entirety such that there will be no restriction on transfer of shares to a competitor.





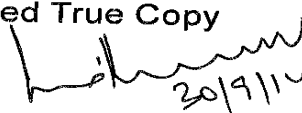
COMPETITION COMMISSION OF INDIA
(Combination Registration No. C-2014/04/164)



- d) Commitment to construct all five tanks in the first phase of construction itself so that the total capacity available is not less than 47,500 KL.
25. In this regard, the Commission also directs the Parties to furnish the copies of the respective board resolutions alongwith the amended and restated agreements within 30 days of the passing of the aforesaid board resolutions.
26. Apart from the preceding commitments offered by the Parties in respect of which the Parties have been directed vide paragraph 24 above to pass the requisite board approvals, in keeping with the additional commitments offered by the Parties, the Commission directs each of the Parties to ensure the implementation of safeguards in the operation of MAFFFL on its commissioning as listed in paragraphs 19 (a), (b) and (c), in entirety.
27. Considering the facts on record as per the details provided in the notice given under sub-section (2) of Section 6 of the Act, the assessment of the proposed combination on the basis of the factors stated in sub-section (4) of Section 20 of the Act after taking in account the voluntary commitments offered by the Parties, the Commission is of the opinion that the proposed combination is not likely to have an appreciable adverse effect on competition in India and therefore, the Commission hereby approves the same under sub-section (1) of Section 31 of the Act.
28. This order shall stand revoked in case of failure to comply with the commitments submitted by the Parties, and/or order of the Commission and also if, at any time, the information provided by the Parties is found to be incorrect.
29. The Secretary is directed to communicate to the Parties accordingly.



Certified True Copy


ANIL K. VASHISHT
Office Manager
Competition Commission of India
New Delhi

Page 15 of 16

15. Annexure 8: Memorandum of Understanding



General Stamp Office, Mumbai.
L. S. V. No. 222

महाराष्ट्र MAHARASHTRA
- 8 SEP 2010

PROPER OFFICER
SHRI. L. S. BAMBLE

सी. कारन लक्ष्मण बाम्ळे DK 326552
महाराष्ट्र, ज. नं. १३, बाम्ळे
मुंबई - ४०००९९
27 SEP 2010
Mumbai International Airport Pvt. Ltd.
21184
महाराष्ट्र अंतर्राष्ट्रीय विमानतळ

MEMORANDUM OF UNDERSTANDING

THIS MEMORANDUM OF UNDERSTANDING ("MOU") is entered into at Mumbai on this 30th day of SEPTEMBER, 2010

BY AND AMONG:

1. **MUMBAI INTERNATIONAL AIRPORT PRIVATE LIMITED**, a private company incorporated under the Companies Act, 1936, and having its registered office at Chhatrapati Shivaji International Airport, 1st Floor, Terminal 1B, Santacruz (East) Mumbai 400099, India (hereinafter referred to as "MIAL", which expression shall, unless repugnant to the context or meaning thereof, be deemed to mean and include its successors and assigns) of the First Part;

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2. **INDIAN OIL CORPORATION LIMITED**, a company incorporated under the Companies Act, 1956, having its registered office at Indian Oil Bhavan, G 9 Ali Yavar Jung Marg, Bandra (East), Mumbai 400 051 (hereinafter referred to as "**IOCL**", which expression shall, unless repugnant to the context or meaning thereof, be deemed to mean and include its successors and assigns) of the Second Part;
3. **BHARAT PETROLEUM CORPORATION LIMITED**, a company incorporated under the Companies Act, 1956, having its registered office at Bharat Bhavan, 4 & 6 Currimbhoy Road, Ballard Estate, Mumbai 400 001 (hereinafter referred to as "**BPCL**", which expression shall, unless repugnant to the context or meaning thereof, be deemed to mean and include its successors and assigns) of the Third Part; and
4. **HINDUSTAN PETROLEUM CORPORATION LIMITED**, a company incorporated under the Companies Act, 1956, having its registered office at 17, Petroleum House, Jamshedji Tata Road, Mumbai 400 020 (hereinafter referred to as "**HPCL**", which expression shall, unless repugnant to the context or meaning thereof, be deemed to mean and include its successors and assigns) of the Fourth Part.

MIAL, IOCL, BPCL and HPCL are hereinafter individually referred to as a "**Party**" and collectively as the "**Parties**". IOCL, BPCL and HPCL are hereinafter collectively referred to as "**Oil PSUs**".

WHEREAS:

- A. Pursuant to the Operation, Management and Development Agreement dated April 4, 2006 (the "**OMDA**") entered into between MIAL and the Airports Authority of India ("**AAI**"), MIAL has the exclusive right to operate, maintain, develop, design, construct, upgrade, modernize, finance, manage Chhatrapati Shivaji International Airport, Mumbai (hereinafter referred to as "**Airport**" or "**CSIA**"), in accordance with and subject to the terms of the OMDA. By a lease deed dated April 26, 2006 ("**Lease Deed**") executed between AAI and MIAL, the premises of the Airport are demised to MIAL for the term of the OMDA (being a period of 30 years from May 3, 2006 to May 2, 2036, with further extension for a period of 30 years, subject to conditions specified in OMDA).
- B. Land situated within the Airport as more particularly set out in Annexure A, was licensed / leased to the Oil PSUs. The Oil PSUs have constructed on such land aviation fuelling stations with allied facilities and hydrant systems at both the domestic and international terminals of CSIA for the supply of Aviation Turbine Fuel ("**ATF**"). MIAL / Oil PSUs have made certain modifications to the hydrant system and is in the process of undertaking further modification work to the hydrant system to meet the operational requirements of the Airport, in consultation with the respective Oil PSUs. The aforesaid aviation fuelling stations, allied facilities and hydrant systems (as modified as aforesaid from time to time) are hereinafter collectively referred to as the "**Existing**



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Facilities". The layout of the Existing Facilities as on the date hereof is shown at **Annexure B** attached hereto.

- C. Pursuant to a meeting held on April 15, 2009 under the Chairmanship of the Secretary, MoPNG, which was attended by the Director, Ministry of Civil Aviation, and the representatives of AAI, MIAL and the Oil PSUs, an in-principle decision had been taken that the Parties shall constitute a joint venture company/ special purpose vehicle for the purpose of setting up an integrated aviation fuelling facility at a single location (i.e., at the site of the Existing Facilities of IOCL and HPCL near the present domestic terminal 1A at Santacruz) with additional tankage and allied facilities and linked to the hydrant systems (collectively, the "**Integrated Facility**"). The Parties shall finalize an appropriate site within the Airport to meet defence requirements of JP5/AVGAS 100LL/PBM. These facilities shall be operated by JVC subject to confirmation from Indian Navy. Cost of relocation of JP5/AVGAS 100LL/PBM shall be borne by MIAL. A copy of the minutes of the meeting held on April 15, 2009 is attached as **Annexure C** hereto.
- D. In view of the above the Parties have agreed to implement various decisions taken in the meeting held on April 15, 2009 which includes setting up a joint venture company (the "**JVC**").

NOW IT IS AGREED BETWEEN THE PARTIES as follows:

1. PURPOSE

1.1 Setting Up of Joint Venture Company

- 1.1.1 It has been agreed that the Parties shall establish the JVC as a limited liability company in Mumbai for the purposes of taking over the Existing Facilities, setting up, developing, maintaining and operating the Integrated Facility and providing into plane services to aircrafts/ airlines and such other activities as may be mutually agreed upon (the "**Project**"). MIAL has incorporated a company under the name "Mumbai Aviation Fuel Farm Facility Private Limited" (MAFFFL) for the above mentioned purpose. It is agreed between the Parties that Oil PSUs will acquire shares of MAFFFL to the extent as mentioned in clause 1.1.3 and the said company will be the JVC.
- 1.1.2 The JVC shall design, procure, obtain financing in respect of, the setting up, construction, operation and maintenance of the Integrated Facility and implement the other aspects of the Project. The Parties shall (i) obtain the required authorizations from applicable governmental and statutory authorities; (ii) comply with all legal requirements as may be required to establish the JVC; and (iii) enter into a shareholders' agreement for formation of the JVC.
- 1.1.3 MIAL, IOCL, BPCL and HPCL shall each hold 25% of the equity share capital in the JVC.



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1.2 Setting Up of Integrated Facility

- 1.2.1 The Parties shall mutually appoint an independent expert for establishing the feasibility of and designing the Integrated Facility. The independent expert so appointed shall integrate the design and planning of the Integrated Facility with the Master Plan for the Airport. The report by the independent expert shall be put forward for the approval of the task force appointed pursuant to Clause 2.11. Cost of appointing the independent expert may be initially borne by MIAL and shall be ultimately reimbursed by JVC to MIAL.
- 1.2.2 It shall be ensured by MIAL that all operational requirements for the Integrated Facility are met based on the expert's reports and taking into consideration all inputs including facilities to receive product by tank truck / adequate parking space for refuelling equipments. If necessary, MIAL shall licence additional land to the JVC on such terms and conditions as may be mutually agreed between MIAL and the JVC for the Integrated Facility.
- 1.2.3 Any work in relation to any addition/ modification that may be required to be made to the existing hydrant system till the Existing Facilities are taken over by the JVC, shall be carried out by MIAL in consultation with the respective Oil PSUs.
- 1.2.4 On formation of the JVC, the Oil PSUs and MIAL shall transfer to the JVC all their right, title and interest in and to all assets comprising the Existing Facilities other than underlying land, including (i) the assets at the merged site of the Existing Facilities of IOCL and HPCL near the present domestic terminal 1A at Santacruz, admeasuring approximately 30,236 sq. mtrs. (the "Integrated Facility Site") as more particularly shown in Annexure B attached hereto, at which the Integrated Facility is to be set up; and (ii) all other assets forming part of the Existing Facilities, which may be used for the Integrated Facility or may become redundant pursuant to the setting up of the Integrated Facility. It is clarified that all movable and immovable properties comprising the Existing Facilities shall be transferred to the JVC, except those movable properties (other than hydrant dispensers) that the JVC decides are not required for its operations. Considering the tight timelines for commissioning of Integrated Facility, all Parties shall endeavour to complete the above exercise in the shortest possible time as soon as JVC is formed.
- 1.2.5 Such transfer by the Oil PSUs and MIAL to the JVC shall be for a consideration equivalent to the replacement cost less depreciation of the Existing Facilities as on the date of such transfer. The methodology of determining the replacement cost and depreciation of assets comprising the Existing Facilities shall be mutually agreed amongst the Parties. Such consideration (hereinafter referred to as the "Compensation") shall be paid by the JVC to the respective Oil PSUs and MIAL in monthly instalments of an amount to be mutually determined by the Parties ("EMIs"), over a period from the date of handing over of the assets by the Oil PSUs and MIAL to JVC till May 2, 2036, provided that the JVC shall have the option to at any time pre-pay, in the whole or in one or more parts, the outstanding Compensation



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amounts. Since the Compensation may be paid over a period of time till May 2, 2036, in order to protect the Net Present Value (NPV) of consideration amount to be received by Oil PSUs and MIAL, interest component shall be added on the Compensation amounts to the extent payment thereof is deferred, at the SBI Base Rate prevailing at the beginning of each financial year plus 4.25% (being the difference, as on July 1, 2010, between SBI PLR {11.75%} and Base Rate {7.50%}) and EMIs shall be recomputed accordingly at the beginning of each year.

- 1.2.6 The JVC shall set up, construct and develop the Integrated Facility at the Integrated Facility Site and modify the hydrant systems wherever required as per mutually agreed plan.
- 1.2.7 All existing agreements and arrangements between MIAL and the Oil PSUs in relation to any of the existing assets taken over by the JVC for the purpose of setting up the Integrated Facility shall be taken over by the JVC and the JVC shall abide by the terms and conditions of all such agreements.
- 1.2.8 The modalities for operating the Existing Facilities after they have been taken over by JVC and till the Integrated Facility is operationalised, shall be as decided by the JVC. After the Existing Facilities have been taken over by JVC the licence fees/lease rent for land underlying such facilities shall be paid by the JVC to MIAL. The licence fees/lease rentals payable by JVC to MIAL shall be mutually discussed and arrived at.
- 1.2.9 After taking over the Existing Facilities, the JVC will identify the assets that are not proposed to be used for the Integrated Facility and therefore would become redundant. The JVC shall have the right to dismantle and dispose of any such redundant assets, notwithstanding the fact that the Compensation may be paid in instalments. The proceeds from the dismantled assets shall be passed on to the respective Parties proportionately in the ratio of the value of assets acquired by JVC. The instalments towards Compensation shall be recomputed and reduced accordingly on completion of the disposal of such dismantled assets.
- 1.2.10 The Oil PSUs shall hand over to AAI/MIAL (as the case may be), free from all encumbrances, the possession and occupation of land underlying all Existing Facilities that become redundant, within three (3) months from the date such assets are rendered redundant. Any redundant asset shall be disposed off by the JVC and the land to be made available to AAI/MIAL shall be clear of any such redundant assets.
- 1.2.11 The Compensation payable by the JVC to the respective Oil PSUs and MIAL shall be recovered by JVC from the suppliers of ATF as a separate component in the throughput fees charged to such suppliers and the EMI shall be directly paid to respective Oil PSUs and MIAL irrespective of the actual amount of recovery. Since recovery of the Compensation amount shall be based on the throughput, the throughput will be reviewed periodically and if there is any shortfall in throughput, JVC shall appropriately revise this component. The EMI for each year shall be recalculated at the beginning of each financial year,

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based on the SBI Base Rate at the beginning of such year plus 4.25%. For the purposes of this MOU, 'supplier' means any entity supplying ATF at CSIA including the Oil PSUs already supplying ATF, who enter into supplier agreement(s) with the JVC.

1.2.12 The Compensation amount payable to Oil PSUs and MIAL shall not be included in the project cost of the Integrated Facility since this cost is getting recovered through a separate component in throughput fee (which comprises of airport charges of MIAL and other charges of JVC).

1.2.13 All suppliers shall pay to the JVC such charges for the operation and use of the Integrated Facility on a monthly basis as may be decided by the JVC from time to time.

1.2.14 Airport charges, now being loosely termed as oil throughput charges, shall be charged as per present arrangements between Oil PSUs and MIAL, agreed vide Minutes of Meeting dated September 4, 2008, a copy of which is attached hereto as Annexure E.

If any person other than the Oil PSUs intends to supply ATF at the Airport through the Integrated Facility, JVC shall collect airport charges from such person and pass through the same to MIAL.

1.2.15 The Integrated Facility shall be owned by the JVC. However, the ownership of the pipelines connecting the refineries to the aviation fuelling stations of the Oil PSUs/Integrated Facility shall continue to remain with the respective Oil PSUs. Any such pipelines that connect to facilities other than the Integrated Facility will be safely dismantled/ abandoned by the Oil PSUs after the commencement of operation of the Integrated Facility.

1.2.16 Integrated Facility shall be operated only by the JVC.

1.2.17 JVC shall be the only into plane service provider at the Airport which shall be reviewed by MIAL/ JVC after a period of 5 years to induct a second into plane service provider.

- (a) If after the initial period of 5 years, MIAL / JVC agree to maintain status quo in respect of the into plane service provider, no further action for induction of a second into plane service provider shall be taken for another period of 5 years, after which a further review shall take place by MIAL/JVC.
- (b) If after the initial period of 5 years, MIAL insists for induction of a second into plane service provider, then the second into plane service provider shall be inducted after a further period of 1 year, to facilitate necessary restructuring by JVC.

For the purpose of this Clause 1.2.17, the initial 5 year period shall be reckoned from the date of commencement of into plane services/ operations by JVC.

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- 1.2.18 In view of the decision that the Integrated Facility will be set up by the JVC, it was decided in the meeting called by Secretary, MoPNG on April 15, 2009 that MIAL shall not proceed with the bidding process initiated by it for such facility.
- 1.2.19 The Parties agree that JVC shall provide all oil companies/eligible suppliers equitable access to the Integrated Facility on common user principle.
- 1.2.20 Each Party shall obtain all necessary approvals that may be required for entering into the Definitive Agreements and the completion of the transactions contemplated herein.
- 1.2.21 The Parties agree that during the period of the agreement(s) with MIAL, the JVC shall provide to MIAL a performance security in the form of a bank guarantee for an amount of Rs. 40 crores, as security for performance of its obligations. It is also agreed that the costs of the above bank guarantee shall form part of the overall project cost for the JVC and shall be recovered by throughput fee mechanism.

2. GENERAL

2.1 Definitive Agreements

The Parties shall enter into definitive agreements, including shareholders agreement, concession agreement(s), operator agreements and other ancillary agreements necessary for the completion of the transactions contemplated in this MOU ("Definitive Agreements"), preferably within three (3) months from the date of execution of this MOU.

2.2 Further Assurances

The Parties agree to do and perform from time to time such other acts, deeds and things that may be required to give effect to the intents and purposes of this MOU, the Definitive Agreements and the transactions contemplated hereunder.

2.3 OMDA requirements

The Parties agree that upon expiry or termination of the OMDA, all rights and obligations of MIAL under this MOU, the Definitive Agreements and the transactions contemplated hereunder shall be assigned and transferred to AAL. The shareholding details of the Oil PSUs are attached at Annexure D hereto.

2.4 Governing Law

This MOU shall be governed by, and construed in accordance with, the laws of India.



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2.5 Disputes

2.5.1 If any dispute/difference arises between the Parties hereto with respect to this MOU, such dispute shall be settled by arbitration in accordance with the Rules of Arbitration of the Indian Council of Arbitration and the award made in pursuance thereof shall be binding on the Parties. However, any dispute/difference that is exclusively amongst the Oil PSUs shall be referred for adjudication to the Permanent Machinery of Arbitration and settled in accordance with rules framed thereunder. The Parties shall ensure that any disputes among them do not affect the functioning and day to day operations of the JVC.

2.5.2 The place of arbitration shall be Mumbai and the language of arbitration shall be English. The arbitration proceedings shall be governed by the Indian Arbitration and Conciliation Act, 1996. The award of the arbitrators shall be substantiated in writing. The court of arbitration shall also decide on the costs of the arbitration procedure. The Parties hereto shall submit to the award of the arbitrators and the latter shall be enforceable in any competent court of law.

2.5.3 Subject to arbitration as per the above provisions, the courts of Mumbai shall have exclusive jurisdiction in respect of this MOU.

2.6 Notices

All notices to be provided pursuant to this MOU shall be in writing and delivered by hand, or sent by facsimile, air courier or registered mail, return receipt requested, to the Parties at the following addresses, or such other address as a Party may advise the other Parties from time to time:

If to MIAL:	Attn:	Advisor, Jet Fuel
	Address:	Mumbai International Airport Pvt Ltd. Chhatrapati Shivaji International Airport, 1 st Floor, Terminal IB, Santaacruz (East), Mumbai - 400 099
	Contact No.	+91 22 6671 4556
	Fax No.	+91 22 6671 4640

If to IOCL:	Attn:	Executive Director (Aviation)
	Address:	Indian Oil Corporation Ltd. Indian Oil Bhawan G-9, Ali Yavar Jung Marg, Bandra (East),



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		Mumbai - 400 051
	Contact No.	+91 22 2655 9500
	Fax No.	+91 22 2644 7984
	E-mail:	rsareen@indianoil.co.in
If to BPCL:	Attn:	GM Aviation & SBU Head
	Address:	Bharat Petroleum Corporation Ltd. A- 5&6 , Sector -I, Noida - 201301, Uttar Pradesh
	Contact No.	+91 120 2474480
	Fax No.	+91 120 2474481
If to HPCL:	Attn:	Mr. R. Radhakrishnan, GM-Aviation and Head SBU
	Address:	Hindustan Petroleum Corporation Ltd. Aviation SBU, Hindustan Bhawan, Ground Floor, 8, S V Marg, Ballard Estate, Mumbai - 400 001
	Contact No.	+91 22 2261 4352 / +91 98202 44320
	Fax No.	+91 22 2261 1776
	E-mail:	rradhakrishnan@hpcel.co.in

The representatives of the Parties named in this Clause 2.6 are the authorized representatives of the Parties. Parties may appoint a new authorized representative by intimating the other Party in writing of such change.

2.7 Authority

The Parties have obtained all necessary corporate approvals to execute this MOU in accordance with its terms.

2.8 Binding Obligation

The provisions of this MOU shall be binding on the Parties. This MOU shall cease to be valid upon execution of the Definitive Agreements.



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2.9 Counterparts

This MOU may be executed in counterparts (or more than one part), whether original or facsimile, each of which when executed and delivered shall be an original, but all the parts together shall constitute one and the same instrument.

2.10 Overriding Effect

This MOU shall supersede any previous arrangements or writings between the Parties with respect to the matters covered herein and shall be effective from the date of execution hereof.

2.11 Task Force

Within 15 days of execution of this MOU, a task force shall be formed headed by MIAL and with representation from all Oil PSUs, which will meet at regular intervals and facilitate the time-bound implementation of the terms of this MOU.

[SIGNATURE PAGE FOLLOWS]



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IN WITNESS WHEREOF the Parties have executed this MOU through their respective authorized signatories on the date first mentioned hereinabove.

For and behalf of Mumbai International Airport Private Limited


 Name: **RAJEEV KUMAR JAIN**
 Designation: **PRESIDENT**

 Witness 1


 Witness 2

For and behalf of Indian Oil Corporation Limited


 Name: **R. SAREEN**
 Designation: **Executive Director (Aviation) & Constituted Attorney**
INDIAN OIL CORPORATION LIMITED
G-9, Ali Yavar Jung Marg,
Bandra (East), Mumbai - 400 051.

 Witness 1

 Witness 2

For and behalf of Bharat Petroleum Corporation Limited


 Name: **SHYAMAL B. BHATTACHARYA**
 Designation: **General Manager (Aviation)**
Head Aviation Business Unit
Bharat Petroleum Corporation Limited
A-5 & 6, Sector-1, NOIDA-201 301, U.P.

 Witness 1

 Witness 2

For and behalf of Hindustan Petroleum Corporation Limited


 Name: **R. RADHAKRISHNAN**
 Designation: **General Manager - Aviation**

 Witness 1
HINDUSTAN PETROLEUM CORPORATION LTD.
(A Government of India Enterprise)
Hindustan Bhavan
8, Shoorji Vallabhdas Marg,
Mumbai - 400 001.

 Witness 2

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ANNEXURE C
Minutes of meeting held on April 15, 2009 under Chairmanship of
Secretary, MoPNG

[Attached separately]



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Most Immediate

No. P – 45011/8/2007-Dist.
Government of India
Ministry of Petroleum & Natural Gas

Shastri Bhawan,
New Delhi, the 22nd April, 2009

OFFICE MEMORANDUM

Subject : Minutes of the 7th meeting of the National Facilitation Committee (NFC)-Action Taken Report.

The undersigned is directed to refer to Ministry of Civil Aviation's O.M. No.AV.24032/25/2004-AAI dated 23rd March, 2009 on the subject mentioned above.

2. It is mentioned that in pursuance of the decisions taken in the 7th meeting of National Facilitation Committee held on 9th March, 2009, a meeting was taken by Secretary, MOP&NG on 15th April, 2009, to resolve various pending issues between PSU Oil Companies and Mumbai International Airport Pvt. Ltd. (MIAL). The minutes of the meeting are annexed for information and necessary action.

3. This issues with the approval of Secretary (P&NG).



(Sunil Kumar)

Under Secretary to the Govt. of India
Tel. 23389459

Encl.: As above

To

Shri Sandeep Prakash,
Director,
Ministry of Civil Aviation,
'B' Block, Rajiv Gandhi Bhawan,
Safdarjung Airport
New Delhi.

Copy to : Shri Rajive Kumar, Joint Secretary, Cabinet Secretariat, Rashtrapati Bhawan,
New Delhi 110001

Copy also for information and necessary action to :

1. Director (Mktg.) of IOC/BPCL/HPCL
2. Shri GVK Reddy, Chairman, MIAL, 511, World Trade Centre, New Delhi



MINUTES OF THE MEETING HELD UNDER CHAIRMANSHIP OF SECRETARY, MoPNG ON 15TH APRIL, 2009 AT CSI AIRPORT, MUMBAI REGARDING ISSUES RELATING TO OIL FACILITIES AT CSIA

A meeting was held under the Chairmanship of Secretary, MoPNG to discuss and finalise various pending issues relating to oil facilities at CSIA in light of development requirements of CSIA. List of participants is annexed.

2.1 Shri Sanjay Reddy, MD, MIAL made a presentation highlighting severe land constraints being faced by CSIA as compared to other similar airports in India and worldwide. He explained that in view of extreme paucity of land for the development of airport, it was essential that land is optimised for various purposes. It was highlighted that present aviation fuel facilities at CSIA are owned and operated by three oil PSUs namely IOCL, BPCL and HPCL. ATF is received at onsite fuel facilities through 10" pipeline connected with two refineries of BPCL and HPCL. Another pipeline of 10" is being laid by BPCL to strengthen fuel security at airport and both the pipelines could be linked to an offsite facility also.

2.2 Shri Reddy emphasised the necessity of having one integrated fuel facility to cater to the requirements of CSIA. Based on a report from ARUP Consultant, MIAL had indentified present HPCL and IOCL facilities, located in 7.47 acres at Santacruz, as the best option for the integrated fuel facility. It was submitted that the integration of facilities will release much needed land for airport development.

2.3 Details of the present hydrant layout and future hydrant layout were also explained and it was stated that the present hydrant at Sahar will have to be replaced in phases during development of integrated terminal at Sahar.

2.4 On a query from Secretary, MoPNG about adequacy of on-site tankage for 6 days consumption at integrated facility, MD, MIAL explained as follows:

- (a) CSIA will be saturating over next 4-5 years unlike IGI airport, Delhi. Ultimate capacity shall be 40 million passengers and 1 million tonnes of cargo per annum.
- (b) Even after considering long term requirements, consumption is not likely to exceed 7-8000 KL per day which is at present around 4,000 KL per day. 48,000 KL tankage onsite would be adequate to cater to the requirements of the airport particularly in view of the dedicated pipelines from the two refineries of oil companies.
- (c) CSIA is already connected by dedicated ATF pipeline to two refineries (at about 19 kms distance) and another pipeline has been laid upto outside airport and laying of pipeline inside CSIA is going to commence shortly by BPCL and is expected to be completed within a period of 6 months.

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- (d) Looking into above facts, the contingency requirements of CSI airport are on a lower side and about 6 days on-site storage capacity is considered adequate.

2.5 It was explained that due to development of airport and realignment of road traffic, it was essential to relocate two petrol pumps at Sahar, both in the interest of airport and IOCL in view of change in traffic flow. Similarly, the retail outlet at Santacruz was also coming in way of the planned road system and needs to be relocated.

3. Subsequent to the presentation, Secretary MoPNG visited the existing aviation fuel facilities at airport belonging to IOCL, BPCL and HPCL.

4. After visit to the respective locations, a joint presentation on behalf of oil industry was made. Various issues were raised by oil industry, which were discussed in detail.

5. JS, MoPNG summarised the position as follows:

- (a) Oil companies could locate the integrated facility at present HPCL, IOCL facilities at Santacruz taking into consideration operational requirement.
- (b) Joint Venture Company (JVC) may be constituted where MIAL could participate. This would resolve the issue of transfer of assets to MIAL.
- (c) Compensation mechanism for existing assets getting redundant needs to be worked out.

6. Secretary, MoPNG sought the views of MoCA. Director, MoCA responded as follows:

- (a) HPCL and IOCL facilities at Santacruz being on air side have regulated access while IOCL site at Sahar is on land side. It is also very near to the main road and may become vulnerable once elevated road, under construction, passes next to it. Hence the Santacruz facilities would be better from security point of view.
- (b) Use of land for airport development is a crucial issue. The present IOCL facilities at Sahar could be put to better use without compromising requirements of fuel facilities. A tankage of 48,000 KL would be adequate to meet the requirement of MIAL in view of the connectivity to the two refineries and the cap on expansion potential of MIAL.

7. Secretary, MoPNG stated that timely development of CSI airport, Mumbai is of great importance and all stake-holders, including Oil Companies, should cooperate in this effort. MoPNG and Oil Companies also support establishment of 'Open Access System' at the airports.



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8. After detailed discussions, following decisions were taken:

A. Integrated fuel farm

- (a) It was decided that present HPCL and IOCL facilities at Santacruz will be merged to be converted into integrated common user fuel farm with addition of tankage to total 48,000 KL and other facilities, as per requirement.
- (b) MIAL and the oil companies would together appoint independent experts for designing the new aviation fuel facilities at Santacruz. MIAL shall ensure that operational requirements of Oil Companies are met based on expert report and taking into consideration all inputs including tank truck operations/adequate parking space for refuelling equipments and if necessary make provisions for additional land on the Santacruz side.

B. Joint Venture Company (JVC)

- (a) It was 'in-principle' decided to constitute a joint venture company (JVC)/SPV comprising of IOCL, BPCL, HPCL and MIAL, subject to compliance with OMDA requirements and MIAL shall seek exemption from competent authority, if required. The equity contribution of each Oil company to be mutually decided. However equity share of MIAL shall be limited to maximum 25%.
- (b) JVC/SPV shall own all assets of integrated fuel facility, which includes existing and new hydrants but the ownership of pipelines connecting to refineries will rest with existing owners. For existing hydrants also oil companies and MIAL shall be compensated as for other redundant assets.
- (c) Existing assets at HPCL and IOCL facilities at Santacruz, which are to be utilised for integrated fuel farm shall be transferred to JVC/SPV, and assets which are not so utilised will be compensated as redundant assets. Land required for this facility will be licensed by MIAL to JVC/SPV at mutually agreed terms.
- (d) Assets of Oil PSUs and MIAL at airport becoming redundant consequent to integrated fuel facility and replacement of hydrants by new hydrants shall be compensated by the JVC/SPV. Recovery of compensation amount shall be spread over a period of 27 years, being balance validity of OMDA between MIAL and AAI. Recovery will be by way of cost element in operating charges and the amount collected will be passed on by JVC to respective oil PSUs and MIAL.



3

- (e) Lands underlying aviation fuel facilities, which will become redundant, shall be handed over to MIAL clear of any encumbrances.
- (f) JVC/SPV shall operate the fuel farm and shall also provide into plane service.
- (g) Subject to statutory compliance and other approvals, joint venture agreement shall be executed preferably within 3 months.
- (h) JVC/SPV shall honour existing agreements between respective oil companies and MIAL.

C. Retail outlets

(a) Santacruz retail outlet

IOCL shall restructure this outlet to minimum requirement. Extra land would be released to MIAL as and when required by MIAL after restructuring and when proposed road work is undertaken by MIAL. IOCL shall be suitably compensated for the same.

(b) Retail outlet near international terminal

To be shifted to a location suggested by MIAL and agreed in the meeting by IOCL. IOCL to be compensated by MIAL for loss of sales during the intervening period and for relocation costs. The new location shall be given by MIAL to IOCL in lieu of the existing location. The relocation shall take place as and when work on new approach road is undertaken by MIAL.

(c) Retail outlet near present air cargo facilities

As this outlet does not affect the expansion plans of MIAL, IOC may continue at existing location but if the traffic flow falls with the construction of elevated road, IOC would retain the option of shifting to the location suggested by MIAL. IOCL shall be suitably compensated for the same, however both locations (point no b & c) should not be on the same side of the road.

D. MoU

MoU to be executed among IOCL, BPCL, HPCL and MIAL within a period of 15 days. The draft MOU shall be circulated by MIAL as agreed by them.

9. Meeting ended with a vote of thanks to the Chair.



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Annexure

LIST OF PARTICIPANTS

Ministry of Petroleum & Natural Gas

1. Shri R.S. Pandey, Secretary, Petroleum – In chair
2. Shri Apurva Chandra, Joint Secretary (Marketing)

Ministry of Civil Aviation

1. Shri Sandeep Prakash, Director

Airports Authority of India

1. Shri R. C. Chitkara, RED

BPCL

1. Shri S. Radhakrishnan, Director (Marketing)
2. Shri S.P. Mathur, Executive Director (Aviation)

IOCL

1. Shri S. Behuria, Chairman
2. Shri G.C. Daga, Director (Marketing)
3. Shri R. Sareen, Executive Director (Aviation)
4. Shri Deepak Pandya, Executive Director (MSO)

HPCL

1. Shri Roy Choudhry, Director (Marketing)
2. Shri K. Srinivas, DGM (Aviation)

MIAL

1. Shri G.V.Krishna Reddy, Chairman
2. Shri Sanjay Reddy, Managing Director
3. Shri R.K. Jain, President
4. Shri Sanjay Narayan
5. Shri Chellam, Advisor, Jet Fuel
6. Shri Chrudutta Deshmukh, VP, Urban Planning



5

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16. Annexure 9: Minutes of the meeting of user consultation

Minutes of the Meeting

Minutes of the Meeting held by Mumbai Aviation Fuel Farm Facility Private Limited (MAFFFL) with Aviation Fuel suppliers at Hindustan Petroleum Corporation Limited, Santacruz ASF, Mumbai on 8th January 2015 at 1400 hrs.

List of Participants:

S. No.	Name of Participants	Name of the organization
1	Mr. Shyam Mustyalwar	Mumbai Aviation Fuel Farm Facility Private Limited
2	Mr. Ravindra Mittal	Mumbai Aviation Fuel Farm Facility Private Limited
3	Mrs. Geeta Iyer	Mumbai Aviation Fuel Farm Facility Private Limited
4	Mr. G Krishna Kumar	Indian Oil Corporation Limited
5	Mr. P. J. Kavde	Bharat Petroleum Corporation Limited
6	Mr. Ranjeet Mundayur	Hindustan Petroleum Corporation Limited

The agenda for the meeting was:

1. Consultation on the Tariff for Fuel Infrastructure Charges (FIC) of INR 828 per kiloliter

Points discussed:

1. Mr. Mustyalwar started the meeting by stating the readiness of MAFFFL in taking over the existing facilities from respective Oil PSUs in following aspects –

a. Start of Operations–

MAFFFL is ready to start the operations from 13th January 2015







Page 1 of 4

b. Status of transfer deed and license agreement –

The stamp duty of all the agreements including the transfer deed has been paid on 30th December 2014 and the registration is planned on 13th January 2015. There after the facilities shall stand transferred to MAFFFL.

c. Registration for Shop & Establishment –

Application for shop and establishment has been made on 7th January 2015 to the concerning authority.

d. Factory license–

Factory license application has been submitted by MAFFFL and is under consideration of the respective authority. However the license will be issued on surrendering of the existing licenses of the Oil PSUs. The same is planned to be done after the registration of the transfer deed.

e. BMC Storage & Factory License –

Applications for BMC's Storage and Factory License have been submitted by MAFFFL to the relevant authority (BMC) and are under consideration. However the license will be issued on surrendering of the existing licenses of the Oil PSUs. The same is planned to be done after the registration of the transfer deed.

f. PESO License –

Application is ready and will be submitted along with the copy of the transfer deed. The same is also planned to be done after the registration of the transfer deed.



Page 2 of 4

g. Status of the tender process for appointing the Fuel Farm Operator –

The price bid has been opened. The same shall be placed before the board for their approval. Subsequently the order will be placed with the L1 bidder.

2. Mr. Mustyalwar apprised the users that MAFFFL is approaching the Airport Economic Regulatory Authority with its Multi Year Tariff Proposal seeking approval on a Tariff for Fuel Infrastructure Charges of INR 828/- per kiloliter
3. Mr. Mustyalwar has given a presentation capturing the crucial aspects of the project as well as the basis of determination i.e. detailed regulatory building blocks calculation, of Fuel Infrastructure Charge of INR 828 per Kiloliter.

Questions raised by stake holders-

1. Project cost –

On the enquiries with regards to capex the same is on the following basis –

- a) For the works carried out by MIAL on behalf of MAFFFL, the costs as certified by BL are considered.
- b) For the work said to be started, the basis is the valuation report by Mott McDonald.
- c) It was also brought out that the project cost considered for the works yet to be started is based on the valuation report of Mott Mc Donald is as of February 2012 and is subject to revision.

2. O&M expenses –

On the enquiries with respect to O&M, it was explained that while the fuel farm operations are outsourced –

- a) In MAFFFL, majority of the officers are on deputation from Oil PSUs, hence the salaries and wages, including the deputation allowance paid by their respective organizations are reimbursed by MAFFFL

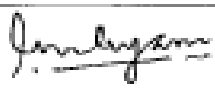










Page 3 of 4

- b) The License fees to be paid to the Airport Operator is payable by MAFFFL
- c) Property tax and all other statutory dues which are considerable in amount (in Mumbai) is payable by MAFFFL

End of the minutes of meeting.

S. No.	Name of Participants	Name of the organization	Date	Signature
1	Mr. Shyam Mustyaliwar	MAFFFL	8-1-15	
2	Mr. Ravindra Mittal	MAFFFL	8-1-15	
3	Mrs. Geeta Iyer	MAFFFL	8-02-15	
4	Mr. G Krishna Kumar	IOCL	8-01-15	
5	Mr. P. J. Kavde	BPCL	08-01-15	
6	Mr. Ranjeet Mundayur	HPCL	08-01-15	

MAFFFL/AERA/41

49/21/2015
9/1/15

Date: 9th January 2015

To,
The Chairman,
Airports Economic Regulatory Authority of India,
AERA Building,
Administrative Complex,
Safdarjung Airport,
New Delhi 110 003

Subject: Submission of Annual Tariff Proposal for Mumbai Aviation Fuel Farm Facility Private Limited Integrated Fuel Farm at CSI Airport, Mumbai.

Dear Sir,

Mumbai Aviation Fuel Farm Private Limited (hereinafter referred to as "MAFFFL") registered under the Company's Act, 1956 has been awarded a concession by Mumbai International Airport Ltd (herein under referred to as "MIAL") to design, built, develop, finance, operate and manage the Integrated Fuel Farm (herein under referred to as "The Fuel Farm") at Chhatrapati Shivaji International Airport, Mumbai. MAFFFL was formed as a Joint Venture Company (JVC) under this concession wherein each HPCL, BPCL, IOCL & MIAL holds 25% stake in the said JVC (MAFFFL). Tenure of this concession is for 21 years.

The Fuel Farm is expected to be ready for commencement of its commercial operations by 13th January 2015 wherein storage and fuelling services will be provided to our customers.

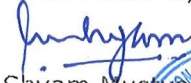
It may be noted that user consultation with customers were held and the same is incorporated in the ATP.

The aforesaid services being defined as Regulated Services under Section 2(A)(4)(5) of AERA Act, 2008 and your vide order dated 21st Feb 2011 requiring such service provider to seek Tariff approval by filing Annual Tariff Proposal (hereinafter referred to as 'ATP'), I'm here by submitting the ATP for providing Fuelling service at the said Fuel Farm at Mumbai Airport.

The Company has substantially complied with the Authority's requirement and have justified its proposed tariff in the proposal (submitted herewith the present letter). The proposed tariff charges are attached as Annexure 2 of the Proposal.

I would be happy to provide any further clarification if so required by the Authority.

Yours Sincerely,


Shyam Musty
Chief Executive Officer



Encl:

1) Schedule of Tariffs.

Form B: (ref: Section A1.8 of Appendix I)

BEFORE THE AIRPORTS ECONOMIC REGULATORY AUTHORITY OF INDIA

AT NEW DELHI

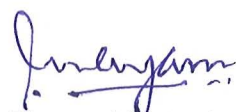
SUBMISSION OF PROPOSAL FOR DETERMINATION OF ANNUAL TARIFF FOR AND ON BEHALF OF:

M/S MUMBAI AVIATION FUEL FARM FACILITY PRIVATE LIMITED

I, Shyam Mustyalwar, aged 51 year's resident of 36/504 HP Nagar East Colony, Vasi Naka, Chembur, Mumbai - 400074, acting in my official capacity as Chief Executive Officer in M/s Mumbai Aviation Fuel Farm Facility Private Limited having its registered office at 1st floor, Terminal 1B, Chhatrapati Shivaji International Airport, Mumbai - 400099, Maharashtra do hereby state and affirm as under that:

1. That I am duly authorized to act for and on behalf of M/s Mumbai Aviation Fuel Farm Facility Private Limited in the matter of making this submission before the Airports Economic Regulation Authority of India, New Delhi ('the Authority');
2. I am competent to make this submission before the Authority;
3. I am making this submission in my official capacity and the facts stated herein are based on official records;
4. The contents of the Annual Tariff Proposal submission which include inter alia:

(i) Proposed Tariff(s) where the Authority has specified a light touch approach for the duration of the Control Period and (ii) Justifications are correct and true to my knowledge and belief and nothing material has been concealed there from.



Shyam Mustyalwar

Chief Executive Officer



Annexure 1

Form F14(a) : Annual Tariff Proposal for Tariff Year 1 - Format for Providing information on EMAY (Ref: section A18 of Appendix I)

S. N	Particulars	for Tariff Year 1
1	yield per Unit	828



Annexure 2
Form - 14(b)

TARIFF FOR FUEL INFRASTRUCTURE CHARGES (FIC) AT INTEGRATED FUEL FARM
BUILT, MANAGED AND OPERATED BY MUMBAI AVIATION FUEL FARM FACILITY PVT LTD AT MUMBAI AIRPORT
EFFECTIVE FROM 12TH JANUARY, 2015 AND VALID TILL 31ST MARCH, 2016

S.No.	Charges	Rate	
1	Fuel Infrastructure Charges	828	INR per Kiloliter