File No. AERA/20010/MYTP/MIAL/2011-12-III

Consultation Paper No. 22/2012-13

सत्यमेव जयते

Airports Economic Regulatory Authority of India

Determination of Aeronautical Tariff and Development Fee in respect of Chhatrapati Shivaji International Airport, Mumbai for the 1st Regulatory Period (01.04.2009 – 31.03.2014).

New Delhi: 11th October, 2012

AERA Building
Administrative Complex
Safdarjung Airport
New Delhi – 110 003

Index

1. Brief facts

1.1. In the year 2003, the Airports Authority of India Act, 1994, was amended to enable setting up of private airports and the leasing of existing airports to private operators. The Amendment Act 43 of 2003 was brought in to effect on 01.07.2004. In pursuance thereof, the Government of India (GoI), had approved the modernisation, up-gradation and development of the Delhi and Mumbai Airports through private sector participation. Airports Authority of India (AAI) initiated the process of selecting a lead partner for executing the modernisation projects and undertook a competitive bidding.

1.2. In so far as Chhatrapati Shivaji International (CSI) Airport at Mumbai is concerned, a consortium led by the GVK Group was awarded the bid for operating, maintaining, developing, designing, constructing, upgrading, modernising, financing and managing Chhatrapati Shivaji International Airport (CSIA), Mumbai. Post selection of the private consortium a special purpose vehicle, namely Mumbai International Airport Private Limited (MIAL), was incorporated on 2nd March 2006 with AAI retaining 26% equity stake and balance 74% of equity capital acquired by members of consortia. The GVK consortia comprised GVK Airport Holding Pvt Ltd, ACSA Global Limited and Bid Services Division (Mauritius) Ltd. On 4th April 2006, MIAL signed the Operation, Management and Development Agreement (OMDA) with AAI, whereby the AAI granted to MIAL the exclusive right and authority during the term to undertake some of the functions of AAI being the functions of operations, maintenance, development, design, construction, upgradation, modernising, finance and management of the CSI Airport and to perform services and activities constituting aeronautical services and non-aeronautical services (but excluding Reserved activities) at the airport. MIAL took over the operations of CSI Airport on 3rd May 2006 (Effective Date). The OMDA has a term of 30 years with MIAL having a right to extend the agreement for a further period of 30 years subject to its satisfactory performance under the various provisions governing the arrangement between MIAL and AAI.

1.3. In addition to the OMDA, MIAL also entered into the following agreements with other relevant parties:

1.3.1. The State Support Agreement (hereinafter referred to as "SSA") dated 26.04.2006 between the President of India acting through the Ministry of Civil Aviation (Hereinafter referred to as MoCA) and MIAL;

1.3.2. Shareholder Agreement;

1.3.3. CNS-ATM Agreement

1.3.4. Airport Operator Agreement

1.3.5. State Government Support Agreement

1.3.6. The Lease Deed

1.3.7. Substitution Agreement

1.3.8. Escrow Agreement

1.4. Provisions regarding "Tariff and Regulation" have been made in Chapter XII of OMDA and clause 3.1 read with Schedule 1 of the SSA.

1.5. MIAL submitted a proposal for revision of tariffs for aeronautical services at CSI Airport, Mumbai, for the Authority's consideration and approval on 11.10.2011. This submission along with the subsequent submissions made by MIAL in respect of Multi-Year tariff proposal (MYTP) is placed collectively at **Annexure – I (I-A, I-B, I-C and I-D)**.

1.6. MIAL made the proposal based on their understanding of the principles of tariff fixation provided in the SSA. They considered the first regulatory period as a 5 year period commencing FY 2009-10 and upto FY 2013-14 and assumed that the charging of revised tariff shall commence w.e.f. 01.12.2011

1.7. Along with the proposal, considerations/ assumptions made for preparing the proposal for determination of tariffs for aeronautical services were submitted. These included:

1.7.1. The principles used for the filing for revision of tariffs for aeronautical services;

1.7.2. The project cost considered in the filing and the calculation of Regulatory Asset Base;

1.7.3. The means of finance and calculation of Weighted Average Cost of Capital;

1.7.4. The forecasts of operation and maintenance expenses and rationale for the same; and

1.7.5. The forecasts of non-aeronautical revenues and rationale for the same

1.8. Along with copies of their key agreements (OMDA & SSA), MIAL also furnished certain reports/studies to support their submissions. These inter alia included:

1.8.1. Notes on reason for variation in project cost

1.8.2. KPMG's report on classification of Assets and costs

1.8.3. Report on determination of cost of equity of Mumbai Airport by the KPMG;

1.8.4. Copies of orders passed by Maharashtra Electricity Regulatory Commission – with reference to levy of cross subsidy surcharge and regulatory asset recovery and requesting Authority to true up these costs and electricity rates as and when determined by MERC,

1.8.5. Municipal Corporation of Greater Mumbai's draft rules for fixing capital values of land and buildings

1.8.6. Air traffic forecast for CSI Airport carried out by the Department of Statistics, MIAL;

1.8.7. Commercial agreements entered into by MIAL with concessionaires at CSI Airport, Mumbai

1.9. MIAL, vide their initial submission dated 11.10.2011, have made the following submissions:

> *"Concessions offered by Central Government to be considered for Tariff Determination:*
>
> *Order No. 13/2010-11 dated 12.01.2011 issued by the Hon'ble Authority recognized that covenants of the concession agreements may require appropriate modifications to be made in the general framework that has been laid down in this Order. Also in the Clause 1.4 of the guidelines released by Hon'ble Authority titled, 'AERA (Terms and Conditions for Determination of Tariff for Airport Operators) Guidelines, 2011' on 28.02.2011 (hereinafter referred as the 'General Guideline') has recognized the need of a separate order for CSIA for tariff determination."*

1.9.1. MIAL also submitted that all the Project Agreements entered into by MIAL including SSA and OMDA are part of concession offered by Central Government.

MIAL stated that vide their letter dated 04.02.2011, they had requested Ministry of Civil Aviation (MoCA) to clarify the same to the Authority and followed up vide letter dated 22.07.2011 to MoCA. MIAL submitted that provisions of SSA and OMDA are interconnected and inter dependent in their interpretation and application.

1.9.2. Provisions of the State Support Agreement (SSA) and OMDA - With regard to the application of the provisions of SSA and OMDA for the purpose of tariff determination, MIAL have made reference to their letter dated 09.02.2011 to the Authority, where MIAL provided interpretation of the principles of tariff fixation as per Schedule 1 of the SSA. MIAL further stated that,

> *"Schedule 1 of SSA states that the Aeronautical charges would be calculated in the 'shared till inflation – X price cap model' According to this model Target Revenue is calculated as per the formula below:*
>
> $$TR_i = RB_i \times WACC_i + OM_i + D_i + T_i - S_i$$
>
> *Each of the above terms has been defined in Schedule I and the same are not being reproduced for the sake of brevity. However, our understanding of each of these is given in our above mentioned letter dated 09.02.2011 (Annexure 4) and is also discussed in detail in the following sections.*
>
> ***Aeronautical and Non- Aeronautical Services***
>
> *Aeronautical and Non- Aeronautical Services are defined under OMDA and the same definitions have been used for the purpose of classification of services. Further, OMDA provides detailed list of various services and facilities that would form part of the Aeronautical Services and Non-Aeronautical Services in Schedule 5 and Schedule 6 respectively.*
>
> ***Shared Till***
>
> *As given in the Schedule 1 of the SSA, 30% of the revenues from Revenue Share Assets (RSA) would go towards reducing the aeronautical charges while computing Target Revenue. Further the*

costs in relation to such revenue shall not be included while calculating Aeronautical Charges. Thus, this Multi-Year Tariff Proposal has been prepared based on the Shared Till as per SSA. Revenue Share Assets (RSA) have been defined in SSA as under:

'"Revenue Share Assets" shall mean (a) Non-Aeronautical Assets; and (b) assets required for provision of Aeronautical related Services arising at the Airport and not considered in revenue from non-Aeronautical Assets (e.g. Public admission fee etc.).'

1.10. MIAL, in their MYTP, also made the following submissions:

1.10.1. MIAL appealed before the Hon'ble AERA Appellate Tribunal (the Tribunal) over certain orders issued by this Authority viz Order no 13/2010-11 dated 12.01.2011; Order no 12/2010-11 dated 10.01.2011; Order no 2 dated 18.04.2012/2012-13 and Order no 3 dated 21.05.2010/2010-11. MIAL stated that the MYTP was being filed without prejudice to the Contentions and submissions of MIAL in respective appeals to Hon'ble Appellate Tribunal.

1.10.2. MIAL stated that along with MIAL's proposal for 10% increase in Aeronautical Charges, a proposal for introduction of Aerobridge Charges was also submitted for consideration of the Authority.

Issue of 10% Tariff Increase

1.11. One of the issues against which MIAL had appealed before the Hon'ble Tribunal is in the matter of 10% increase in aeronautical charges requested by MIAL, w.e.f. 01.05.2009, based on MIAL's interpretation of the provisions in the SSA. Brief facts of the case are as presented in the paragraphs below.

1.12. MoCA, vide its letter no. AV.20036/014/2009-AD dated 06.10.2009, had forwarded a request received from the MIAL (letter ref.no. MIAL/PR/96 dated 28.07.2009), for a 10% increase in aeronautical charges at CSI Airport, Mumbai with effect from 03.05.2009 for the Authority's consideration. Aforesaid request was made by MIAL on the grounds that as per Schedule 6 of the SSA, entered into between the Central Government and MIAL, the regulatory authority/Government of India, will set the aeronautical charges from the commencement of the 4th year from the Effective Date, i.e., 03.05.2006 and for every year thereafter subject always to the condition that, at least, nominal increase of 10% of base airport charges will be available to MIAL. MIAL interpreted the above provisions to mean that the Authority/GOI are bound to permit an increase of 10% of the Base Airport Charges on the commencement of the 4th year and every year thereafter and, accordingly, approval was solicited to increase the airport charges by 10% w.e.f. 03.05.2009. MIAL did not otherwise justify its proposal.

1.13. MIAL was earlier permitted a 10% increase in airport charges w.e.f. 01.01.2009, by the Ministry, in terms of Clause 1 of the Schedule 6 of SSA after completion of two years from the Effective Date i.e., 03.05.2006.

1.14. The request of MIAL was examined in detail by the Authority. It was noted that the 'Base Airport Charges' are the charges which were prevalent on 26.04.2006 (as set out in Schedule 8) and that a nominal increase of 10% had already been permitted by the MoCA over the Base Airport Charges (BAC) in terms of Clause 1 of Schedule 6 and that this increase could be termed as "permitted nominal increase of 10%" contemplated in Schedule 6 of the SSA. Further, the second part of Clause (2) of Schedule 6 states that

> *"a permitted nominal increase of ten (10) percent of Base Airport Charges will be available to the JVC for the purposes of calculating Aeronautical Charges in any year after the commencement of the fourth year".*

1.15. Thus, on a co-joint reading of Clauses 1 & 2, it is evident that as per Clause (1) a nominal increase of 10% is to be permitted on completion of first two years, subject to certain conditions, and as per Clause (2), this permitted nominal increase of 10% will, at the least, be available to the Joint-Venture Company (JVC, i.e. MIAL) for the purposes of calculating airport charges from fourth year onwards. Expressed differently, in terms of first part of Clause 2, the Authority/GOI are required to set aeronautical charges in accordance with Clause 3.1.1 read with the principles set out in Schedule 1 of SSA from 4th year onwards and by virtue of second part the nominal increase of 10% permitted (in terms of Clause 1) is saved. The Authority also noted that the request of MIAL, at least in some part of their communications, appeared to be for an increase of 10% on the prevalent Airport Charges, whereas the second part of the Clause 2 of Schedule 6 mentions an increase of 10% on the BAC, which in the Authority‘s view had already been permitted by the MoCA in terms of Clause 1 of Schedule 6.

1.16. The Authority observed that, if it is accepted that Clause 2 contemplates an year on year increase of 10% from the commencement of 4th year onwards, it would mean that the GOI have agreed to a doubling of BAC in about 7 years' time irrespective of the actual determination in terms of principles set out in Schedule 1. Thus, on a co-joint reading and harmonious construction of the provisions of Schedule 6 of SSA, the Authority found that the following scheme is revealed:-

1.16.1. The airport charges, as existing on 26.04.2006 (which are set out in Schedule 8) will continue for first two years from the effective date.

1.16.2. In the event the JVC fully completes and commissions all the mandated facilities required to be completed during the first two years, it would be allowed a tariff increase of 10% in nominal terms from the beginning of 3rd year from the effective date, as an incentive.

1.16.3. From the commencement of 4th year onwards, tariff will be set by the Authority/GOI as per principles set out in Schedule 1 subject to the condition that, at the least, the nominal increase of 10% of the BAC permitted during the third year, as incentive, will continue to be available to the JVC.

1.17. In view of the above, the Authority felt that there was no warrant in Schedule 6 of SSA for an automatic year on year increase of 10% in airport charges from the commencement of fourth year onwards. Accordingly, the Authority rejected the request made by MIAL for a 10% increase in aeronautical charges at CSI Airport, Mumbai, with effect from 03.05.2009, vide Order No.03/2010-11 dated 20.05.2010.

1.18. MIAL appealed against the said Order of the Authority before the Hon'ble AERA Appellate Tribunal vide Appeal No. 02/2010. The Hon'ble Tribunal, disposed the said Appeal vide its final Order dated 11.05.2011 and directed that:

> *"Therefore, without expressing any opinion on the merits of the case we set aside the impugned order and remit the matter to the Regulatory Authority to pass a reasoned order after grant of opportunity to the parties for hearing and to place further materials, if any. The exercise shall be undertaken within a period of ten weeks. If the Regulatory Authority requires any material to be produced it is but imperative that the same*

shall be supplied by the appellant. We note the stand of Mr. Nanda that a final determination has to be done in each case."

1.19. Pursuant to the Order dated 11.05.2011, the Authority filed an Interim Application (IA) dated 18.07.2011 before the Hon'ble Tribunal praying that instead of merely confining its determination to the 10% increase issue, it may proceed with the tariff determination which would be as per the mandate of the Airports Economic Regulatory Authority of India Act (the Act) as also in public interest and if at such final stage any party is aggrieved they would be free to approach the Hon'ble Tribunal at that stage as per the provisions of the Act.

1.20. Further, the Authority (in the IA) clarified that it had already initiated the process for tariff determination in respect of MIAL in January '2011, wherein MIAL was requested to make a stylised tariff filing, as far as possible with actual numbers, so that the Authority could thereafter consider the matter and then take up the actual tariff determination. However, MIAL initially submitted only their understanding of various provisions of SSA and did not submit any figures for the tariff determination. In view of the same, the Authority (in the IA) clarified that it would not be in a position to undertake and complete the tariff determination within the timeline of 10 weeks as directed by the Hon'ble Tribunal. The Authority, accordingly, requested for modification of the timeline and for permission to decide the entire tariff for aeronautical charges rather than merely the 10% issue.

1.21. The Authority requested MIAL to expedite the details of the tariff filing, with actual numbers (as far as possible) so that the matter could be examined and finalised at the earliest. The Authority also, from time to time, approached the Hon'ble AERA Appellate Tribunal, for extension of the time limit given for the tariff determination as it was not in a position to complete the same in the absence of any proposal from MIAL.

1.22. The Hon'ble Tribunal has, vide its recent Order dated 14.09.2012, ordered as under:

"This is an application for extension of time to finalize the tariff. The original limitation was over on 31st August, 2012. However considering the fact that this Tribunal was constituted only on 24th August 2012, there appears to be some gap in the communication. In that view, the time asked for, is extended by three months with effect from 01.09.2012."

1.23. In accordance with the above, the Authority has considered the 10% increase in aeronautical charges as part of the present exercise of detailed examination of the tariff proposal submitted by MIAL.

1.24. MIAL also separately filed a proposal to increase parking charges for General Aviation Aircraft to which the Authority vide letter No. AERA/20010/MIAL-GA/2009-10/840 dated 07.07.2011 stated that the Authority is unable to consider the matter in a piecemeal manner and advised MIAL to file Multi Year Tariff Proposal (hereafter referred to as "MYTP") for CSIA, Mumbai and to include the said proposal for parking charges as part of MYTP.

Process of Review of Multi-Year Tariff Proposal

1.25. Pursuant to the MYTP submission made by MIAL on 11.10.2011, a series of discussions/ meetings/presentations were held / organised (during the period October 2011 to August, 2012) on the proposal including discussions in respect of the financial model developed by MIAL for this purpose.

1.26. MIAL made presentations on the following:

1.26.1. Traffic forecast of CSI Airport, Mumbai;

1.26.2. Cost allocation between aeronautical and non-aeronautical assets;

1.26.3. Cost of equity;

1.26.4. Operating and maintenance costs;

1.26.5. Case studies of some similar airports (CAA decision on Heathrow; Gatwick Airport)

1.26.6. General tariff filing and other matters having bearing on the tariff determination

1.27. The Authority got the financial model used by MIAL as a part of their tariff application vetted by Consultants. They analysed and reviewed the financial model prepared and submitted by MIAL and advised the Authority on the same. The scope of the assignment included review and assessment of the models' arithmetic accuracy, check for logical and calculation integrity of the models and assistance in undertaking certain sensitivity analyses.

1.28. Further, the Consultants were also required to review the Financial Model for accurately reflecting the concession offered by the Central Government with respect to the key agreement(s), and financial documents. The tasks here included consistency check for incorporation of provisions from key agreements related to various Building Blocks into the financial model and highlighting to the Authority.

1.29. The Consultants were further required to provide assistance to the Authority in identifying such elements that may need to be certified from auditors/ Chartered Accountants of MIAL of key aspects/ assumptions taken from the key / concession agreement(s) and also assist the Authority in reviewing the implications/change in results through sensitivity analysis of various factors, to be conducted with respect to specific changes to assumptions for a factor or even reviewing the drivers and projection bases for such factors.

1.30. During the course of the review and clean-up of the financial model, MIAL were also requested to furnish to the Authority, certifications from its Statutory Auditors in support of figures taken in the financial model including those taken as the base for their projections/forecast. In course of tariff appraisal for CSI Airport, Mumbai and passage of time, the Authority noted that three years of the first control period i.e. FY 2009-10, FY2010-11 and FY 2011-12 are over and hence the Authority sought from MIAL the auditor certificates for actuals till FY 2011-12.

1.31. The analysis of the financial model (based on the model furnished with MIAL's submission dated 11.10.2011), has been carried out by the Consultants based on proposed positions taken by the Authority. The findings, deliberations, changes, and proposed position of the Authority in respect of each item of the Regulatory Building Block are captured in the following sections of this paper.

1.32. MIAL, in their initial submission, submitted their approach for determination of escalation factor 'X'-factor. MIAL stated that,

> *"The escalation factor (CPI-X) for tariff increase is to be calculated by solving the equation given in the SSA. CPI is to be based on average for annual inflation rate as measured by change in the All India CPI (industrial Workers) over the regulatory period. Thus, while determining X factor and maximum average Aeronautical charge at the beginning of first regulatory period, the value of CPI would be an assumed value, which would need to be corrected annually for actual value for each year while keeping the value of X same as determined earlier. As two and a half years of regulatory*

period have already elapsed, MIAL has assumed a one time tariff increase to be effective from 01/12/2011 for the remaining control period."

1.33. MIAL had filed their tariff proposal, through their submission dated 11.10.2011, seeking an X Factor of (-)439.25% for determination of aeronautical tariffs (for the 5 year tariff period FY 2009-10 to FY 2013-14, and charging of revised tariff assumed from 01.12.2011). MIAL also made presentations before the Authority on 19.10.2011 and 25.10.2011 on the MYTP. During the course of the presentations, the Authority requested MIAL to carry out certain modifications in the proposal as also sought clarifications inter alia on the (i) cargo volume forecast (ii) cost of equity (iii) the asset segregation principles adopted by it and the methodology for allocating common assets in the terminal buildings from volume basis to area basis. Accordingly, MIAL submitted a revised MYTP on 23.11.2011 based on the observations of the Authority, where the X-factor was revised to (-)591.95% (for the 5 year tariff period as above and charging of revised tariff assumed from 01.03.2012). Pursuant to the above submission, the Authority held discussions with MIAL on for cleaning-up of the tariff model in terms of bringing hard-coded numbers to the assumption sheets in the tariff model. Subsequent to the discussions, MIAL resubmitted their tariff model on 29.12.2011 without any change in the X-factor. The tariff model was further reconciled with the auditor certificates and clarifications provided by MIAL. The changes made in the tariff model resulted in the value of X-factor being updated to (-) 652.08% for determination of aeronautical tariffs (for the 5 year tariff period FY 2009-10 to 2013-14, and charging of revised tariff assumed from 01.05.2012). The Authority further asked MIAL to submit auditor certificates corresponding to FY 2012. These certificates along with certain clarifications were discussed with MIAL. Based on the submissions for FY 2012 and clarifications by MIAL, the tariff model was further updated. The updations resulted in the value of X-factor being updated to (-)655.46% for determination of aeronautical tariffs (for the 5 year tariff period FY 2009-10 to 2013-14, and charging of revised tariff assumed from 01.07.2012). Considering the CPI-IW inflation of 8.94%, as proposed by MIAL, the CPI – X factor worked out to (+)664.40%.

1.34. MIAL, vide their submissions dated 20.08.2012, indicated that in their submissions they had not considered automatic inflationary increase in the tariff during 2013-2014 (01.04.2013 till 31.03.2014). According to their submission, if this inflationary impact is taken into account, then the 'CPI – X' factor works out to (+)628.29%. MIAL have stated as under,

> *"MIAL has earlier envisaged a CPI – X factor of 664.40% (effective from July, 2012) including an increase due to inflation of 8.94% in FY 13. MIAL now proposes an increase of X factor of 628.29% in FY 13 (effective from July, 2012) and an inflation increase of 8.94% in FY 14."*

1.35. MIAL's calculations of 'X' factor of (-)655.46% was based on the revised tariffs being implemented with effect from 1st July, 2012. As discussed in para 5.13, the new tariffs in respect of CSI Airport, Mumbai are proposed to be effective from 01.01.2013. According to the tariff model submitted by MIAL, if the effective date of application of revised tariffs is taken at 01.01.2013, the 'X' factor would become (-)935.92% (corresponding to the 'X' factor of (-)655.46% mentioned in MIAL's submission) and 'CPI – X' factor would become (+)944.86%. Subsequently MIAL submitted that if automatic inflationary increase in the tariff is considered for FY 14, the 'X' factor would become (-)872.34% and 'CPI – X' factor would become (+)881.29%.

1.36. Presented below is the summary of how X-Factors have varied over various submissions by MIAL at various stages during the tariff determination process:

Table 1: Summary of X-Factors submitted by MIAL at various stages during the tariff determination process

	October 2011	November 2011	April 2012	August 2012	August 2012	September 2012	September 2012
X-Factors	(-)439.25%	(-)591.95%	(-)652.08%	(-)655.46%	(-)619.35%	(-)935.92%	(-)872.34%
CPI – X Factors	(+)448.19%	(+)600.89%	(+)661.02%	(+)664.40%	(+)628.29%	(+)944.86%	(+)881.29%
Effective date of tariff increase	01-12-2011	01-03-2012	01-05-2012	01-07-2012	01-07-2012	01-01-2013	01-01-2013
Effective date of levy of DF *	01-12-2011	01-12-2011	01-05-2012	01-05-2012	01-05-2012	01-05-2012	01-01-2013
Automatic inflationary increase in FY 14	No	No	No	No	Yes	No	Yes
Other key differences from previous submissions	-	Use of Bid WACC for determination of Hypothetical RAB	Incorporation of auditor certificate numbers and other clarifications	Incorporation of auditor certificate numbers and other clarifications	-	-	-

*- MIAL in their initial submission had derived the DF, which they would need to levy in order to bridge its entire gap in the means of finance through DF. For the purpose of derivation, MIAL

proposed to fix DF for domestic embarking passenger at Rs 200 and kept the DF for international embarking passenger as variable (Rs 2184 per departing international passenger corresponding of X-factor of (-)655.46%)

1.37. The Authority observed that MIAL, in their calculation of 'X' factor of (-)872.34%, considered the expense on account of collection charges on Development Fee to be paid by MIAL to the airlines for 3 months of FY 13 (assuming the DF to be effective from 01.01.2013). Since DF, approved by the Authority vide its Order No. 02/2012-13 dated 18.04.2012, is to be levied with effect from 01.05.2012, MIAL, in line with the AIC issued by DGCA, would have to pay collection charges to the airlines with effect from 01.05.2012 for 11 months in FY 13 (instead of 3 months as considered by MIAL) and further till the end of billing of DF by MIAL. While the Authority's discussion in respect of collection charges not being allowed to be defrayed as operating expense has been presented in para 27.24 to 27.31, the Authority notes that MIAL, in their determination of X-factor, have underestimated the collection charges to the extent of 8 months. Hence the Authority feels that for sake of comparison of corresponding figures, it would be necessary to correct MIAL's estimation of X-factor. Considering the expense on account of collection charges for 11 months, the 'X' factor in the Authority's calculation would become (-)873.36%.

1.38. This cleaned up model has been used for sensitivity analysis and all submissions made by MIAL post the cleaning up or those made earlier but which were not mutually agreed have been considered as part of sensitivity analysis in the relevant sections / building blocks.

Issue of Project Cost and Determination of Development Fee

1.39. As per requirements of OMDA, MIAL had submitted a Master Plan to the MoCA, for upgradation and modernisation of the CSI Airport in October, 2006. The Original plan was revised in November, 2007 to provide for a new integrated terminal, relocation of existing international terminal and other existing structures to provide for more space on the airside and consolidation of terminals 2B and 2C to pave way for development of integrated terminal. The Project Cost as per the revised Master Plan was estimated at Rs.9,802 crores.

1.40. Subsequently, MIAL revised the Project Cost to Rs. 10,453 crores in October 2010 on account of certain mandated projects. Further, MIAL submitted that due to delay in handing over of certain areas for construction, the schedule of project got extended by 17 months and with addition of certain new works, the Project Cost was further revised to Rs. 12,380 crores – submitted as part of the MYT proposal.

1.41. In the meantime, after establishment of this Authority, MoCA forwarded MIAL's request for bridging the funding gap of Rs. 2,350 crores, as against that of Rs. 1,543 crores (as permitted by MoCA), through levy of a Development Fee. MIAL made a number of other submissions to the Authority on the issue of determination of DF.

1.42. With respect to MIAL's submissions to the Authority for determination of Development Fee, the Authority noted its inter-linkage with the Multi-Year Tariff Proposal and determination of tariffs and the Authority vide letter No. AERA/20011/MIAL-DF/2009-10/Vol-II/648 dated 25.7.2011 directed MIAL as follows:

> *"Internal accruals are one of the means of finance for the project. Any revision in Aeronautical tariff would directly impact the internal accruals of MIAL and consequently the funding gap to be bridged through DF. Therefore, MIAL is advised to expedite the tariff filling."*

1.43. Further, in the matter of determination of Development Fee in respect of Chhatrapati Shivaji International Airport, Mumbai, the Authority issued Order No. 2/2012-13 dated 18.04.2012. The Authority' order inter alia noted:

> *"The issue of escalation in project cost to Rs. 12,380 crores will be considered by the Authority after the audit commissioned by it is complete, after which the Authority may make further orders regarding rate and tenure of DF, as may be required."*

1.44. The Authority has since undertaken review of the project cost through independent audits (Technical and Financial).

1.45. The Authority's consideration and its tentative views in respect of all relevant issues pertaining to review of Project Cost, determination of DF and review of the MYTP submitted and further submissions made by MIAL are discussed in subsequent sections.

2. Project Cost

2.1. The initial project cost estimated by MIAL, and approved by its Board, was Rs. 9,802 Crores. The Central Government, vide letter no. AV 24011/001/2009-AD dated 27.02.2009 granted approval for levy of Development Fee (DF) by MIAL at CSI Airport Mumbai with respect to such project cost of Rs. 9,802 Crores. The correspondences pertaining to MIAL's project cost and DF-related issues are collectively placed at **Annexure – II**.

2.2. Subsequently MoCA asked MIAL to bear the cost of ATC tower and technical Block to the extent of Rs 150 crores vide its letter No AV.24011/002/2009-AD dated 19.11.2009.

2.3. Vide their letter dated 06.04.2010, MoCA intimated the Authority that costs for shifting of ATC tower and its associated facilities, (Rs. 150 crores) and cost of parallel taxi track will also be considered in the project cost in respect of CSI Airport, Mumbai and captured in Regulatory Asset Base for purpose of determination of DF. These were to be capitalised by MIAL. The letter from MoCA stated as under,

> *"….. the competent authority has decided that the cost of relocating the ATC Tower and its associated facilities is to be borne by MIAL, as the said relocation is due to alteration / modification of the airport.*
>
> *Further on the issue regarding the cost of Rs 150 crores (approx.) towards shifting of ATC Tower and its associated facilities, has also been examined in consultation with AAI and observed the following:*
>
> *The relocation of ATC Tower and its associated facilities fall under the obligations of the JVC i.e. MIAL under Clause 3.3.18 of the CNS / ATM Agreement entered into between AAI and MIAL as the shifting of ATC Tower has become essential in order to carry out the modernization work by MIAL, namely the construction of parallel taxi track on the North-eastern side of R/W 14/32.*
>
> *……….*
>
> *In view of the above facts, the investment made by MIAL on relocation of ATC Tower and its associated facilities has to be treated as part of main project cost and to be capitalized by MIAL along with cost of parallel taxi*

track. Further, this cost has to be captured in the Regulatory Asset Base of MIAL for the purposes of determining DF.

…….”

2.4. Thereafter, vide their letter dated 31.01.2011, MIAL submitted that the project cost had escalated from Rs. 9,802 crores to Rs. 10,453 crores owing to the mandated costs of Rs 651 crores. The mandated costs of Rs 651 crores included the following:

- Cost of ATC Tower Equipment and Technical Block – Rs 310 Crores
- Contribution to MMRDA for Sahar Elevated Access Road – Rs 166 Crores
- Cost of Mithi river Widening within airport premises – Rs 150 crores
- Cost of Shivaji Maharaj memorial – Rs 25 Crores

2.5. In its Multi-Year Tariff Proposal (MYTP), MIAL submitted the following on the issue of Project Cost:

“The initial project cost approved by MIAL’s Board was Rs.9802 Cr. Additionally, there were mandated projects of Rs. 651 Cr. viz. ATC Tower, Equipment and Technical Block (Rs. 310 Cr. increase over Rs. 80 Crores considered earlier in the project cost), Mithi river widening (Rs. 150 Cr.), Contribution to MMRDA for dedicated elevated access road for airport (Rs. 166 Cr.) and memorial of Shivaji Maharaj (Rs. 25 Cr.). Accordingly, the project cost was estimated as Rs. 10,453 Cr.

The details of these costs were submitted to Hon’ble Authority in MIAL’s application for DF vide its letter No. MIAL/PR/15 dated 02.05.2011.

However, due to various reasons which are either beyond the control of MIAL or which have necessitated change in scope, the project cost has been revised to Rs. 12,380 Cr. The increased project cost along with the reasons for the increase was placed before a Committee of Directors appointed by the Board of Directors of MIAL to examine the same and make suitable recommendations to the Board. The Committee, having examined the same, recommended the increased cost to the Board for approval. The Board in its 30th meeting held on 1st October 2011 approved the increased cost of Rs 12,380 Cr.”

2.6. In order to consider the issue of Project Cost for CSI Airport, the Authority requested the Airports Authority of India to appoint independent auditors to audit the process/approach, cost estimates and expenditure incurred till date etc., as per the scope of work approved by the Authority and to submit the audit report(s) for further consideration of the Authority.

2.7. In pursuance thereof, AAI awarded the audit work to M/s Engineers India Limited (EIL, referred as Technical Auditor) and M/s Ved Jain and Associates (VJA, referred as Financial Auditor).

2.8. While M/s Ved Jain and Associates (VJA) were engaged as an Independent Process / Financial Auditor for the Mid-Term Project Cost Estimate review of Mumbai International Airport Limited (MIAL), M/s Engineers India Limited (EIL) were appointed as Technical Auditor (TA) for the same project.

2.9. Both the Technical Auditor and the Financial Auditor conducted their respective audits and submitted their observations for the consideration of the Authority.

2.10. The Authority held discussions with MIAL on the observations presented by the Technical Auditor and the Financial Auditor on the project cost. MIAL's responses to these observations were subsequently discussed with both the Technical Auditor and the Financial Auditor.

2.11. The Authority also held discussions with AAI on the observations from the auditors on the project cost.

2.12. Subsequently, the Financial Auditor submitted their report vide their submission dated 05.09.2012 **(Annexure – III)**. The Technical Auditor submitted their report vide letter EIL/INFRA/AAI-AERA/MIAL-AUDIT/12 dated 07.09.2012 **(Annexure – IV)**.

2.13. Further, AAI submitted their views on the observations of the independent auditors.

2.14. MoCA have not made any comments on the audit reports of the Financial and Technical Auditors.

Audit Report of the Technical Auditor

2.15. The Technical Auditor has noted that the project cost submitted by MIAL has undergone revisions at various instances. The project cost estimated as per the MDP was Rs 6,817.40 crores (break-up provided in the 2nd column of the Table 2). According to estimation of project cost undertaken in January 2009, the project cost was estimated to be Rs 9,802 crores (break-up provided in the 3rd column of the Table 2).

2.16. The Authority has noted from the "Technical Audit for Midterm Review of MIAL's Project Cost Estimates" report of the Technical Auditor that since the Multi-Level Car Park and International Cargo expansion projects had been shifted to BOT basis, the initial project cost should have been Rs. 9,327 crores (break-up provided in the 4th column of the Table 2) instead of Rs. 9,802 crores.

2.17. Further, the initial Project cost got revised from Rs. 9,327 Crores to Rs. 10,453 Crores (break-up provided in the 5th column of the Table 2) due to some additional scope such as AGL works, T1C hotel & miscellaneous works [relocation of NACIL, yellow fever hospital, BMC drainage works, police station & boundary wall (new acquired lands)] and revision of cost which was Rs 475 Crores and also additional new projects of Rs 651 Crores.

2.18. The revision in MIAL's project cost at various points of time, as indicated by the Technical Auditor, is summarised below.

Table 2: Revision in MIAL's project cost at various points of time

Description (Figure in Rs crores)	Project Cost as per MDP	Initial Cost (Jan 2009)	Cost after deduction of BOT projects	Revised Cost-I (Oct 2010)	Revised Cost- II (Oct 2011)
T1 Projects	362.0	397	397	423	453
T2 Projects	5,137.0	4,337	4,067	4,569	5,083
Runway, Taxiway & Apron	Nil	1,164	1,164	1,418	1,545
Landside projects	Nil	41	41	41	41
Miscellaneous projects	Nil	471	266	579	562
AAI works taken over (5.4 of OMDA)	Nil	24	24	24	24
Technical services & Consultancies	286.1	733	733	743	834
Capital expenditure for Operations	Nil	118	118	118	118
Pre-operative Expenses	596.3	415	415	479	684
Capitalized Interest		1,632	1,632	1,069	1,410
Upfront Fee paid to AAI	150.0	150	150	154	154
ATC Equipment's cost & Technical block in NAD colony	Nil	-	-	310	310
Contribution to MMRDA for sahar elevated road	Nil	-	-	166	166
WHSS-Shivaji Smarak / Memorial	-	-	-	25	25

<table>
<tr><th>Description (Figure in Rs crores)</th><th>Project Cost as per MDP</th><th>Initial Cost (Jan 2009)</th><th>Cost after deduction of BOT projects</th><th>Revised Cost-I (Oct 2010)</th><th>Revised Cost- II (Oct 2011)</th></tr>
<tr><td>Mithi River realignment</td><td>-</td><td>-</td><td>-</td><td>150</td><td>150</td></tr>
<tr><td>RET N5 & E2</td><td>-</td><td>-</td><td>-</td><td>-</td><td>51</td></tr>
<tr><td>Enabling cost for taking over of carved out assets (NAD colony)</td><td>-</td><td>-</td><td>-</td><td>-</td><td>110</td></tr>
<tr><td>Cost of settlement of land</td><td>Nil</td><td>-</td><td>-</td><td>-</td><td>30</td></tr>
<tr><td>Project Cost</td><td>6,531.4</td><td>9,482</td><td>9,007</td><td>10,268</td><td>11,750</td></tr>
<tr><td>Escalation & Claims</td><td rowspan="2">286.0</td><td rowspan="2">320</td><td rowspan="2">320</td><td rowspan="2">185</td><td>450</td></tr>
<tr><td>Contingency</td><td>180</td></tr>
<tr><td>Total Project Cost</td><td>6,817.4</td><td>9,802</td><td>9,327</td><td>10,453</td><td>12,380</td></tr>
</table>

2.19. The general issues highlighted in the audit report of the Technical Auditor are reproduced hereunder:

a) *"The project was scheduled to complete by March 2012 for International operations and March 2013 for Domestic operations. But the project got rescheduled due to the delayed handing over of related areas, the scheduled date for completion of Common Processor Terminal by 31st March 2012 is likely to be delayed to August 2013 for International Operation and August 2014 for Domestic Operations.*

b) *After completion of SW Pier & Common Processor Terminal, the existing T2B & T2C would be demolished. The work on the balance 3 Piers (SE, NE & NW) would commence after completion of Common Processor Terminal and is expected to be completed within one year (Domestic operations are forecasted as August"2014).*

c) *The major issues which have delayed the project are given below:*

- *<u>Shifting of Shivaji Statue</u>: The Shivaji statue was falling in the footprint of the new common user terminal and the statue area was scheduled to be handed over by 31st March 2010. However, the approval from government for relocating the statue got delayed by 17 months which affected area of 50000 sq.ft (approx.) works including the structural works, concreting works, underground* *works and mega column erection of head house roof works thus impacting the overall testing & commissioning, which lead to delay in project completion. On 27th August 2011, statue got relocated and the area was handed over for construction.*

- *The existing NACIL facilities including hanger, centralized kitchen, office, sewage utility & sump etc. are hindering the start of work for North-West Pier along with its related contact apron of the Integral Terminal."*

2.20. The Technical Auditor found certain variations from Master Plan 2007 and MDP and they observed that the cost of the Project was within the cost bench marked by M/s Jacobs Consultancy, but it is on the upper side for some works when compared with best industrial practices prevailing in India and that there was a slippage on the part of MIAL regarding non-approval of various changes made during execution stage.

2.21. The Technical Auditor further observed that due to high risk involved in the Project, the percentage of risk premium considered by Principal contractor and sub-contractor are also high which are totally borne by MIAL resulting into further increase in Project Cost.

2.22. The summary of project cost recommended by the Technical Auditor (Rs. 11,747.31 crores) for consideration of the Authority is as below:

Table 3: Summary of project cost recommended by the Technical Auditor

Description	Revised Cost- II (Oct 2011) proposed by MIAL in the MYTP (in Rs crore)	Allowable cost as per the Technical Auditor (in Rs crore)	Difference (in Rs crore)
T1 Projects	453	399	54.00
T2 Projects	5,083	5,082.40	0.60
Runway, Taxiway & Apron	1,545	1512.66	32.34
Landside projects	41	40	1.00
Miscellaneous projects	562	512	50.00
AAI works taken over (5.4 of OMDA)	24	24	-
Technical services & Consultancies	834	834	-
Capital expenditure for Operations	118	118	-
Pre-operative Expenses	684	684	-
Capitalized Interest	1,410	1,410	-
Upfront Fee paid to AAI	154	-	154
ATC Equipments cost & Technical block in NAD colony	310	110	200.00
Contribution to MMRDA for sahar elevated road	166	166	-
WHSS-Shivaji Smarak / Memorial	25	25	-
Mithi River realignment	150	150	-

Description	Revised Cost- II (Oct 2011) proposed by MIAL in the MYTP (in Rs crore)	Allowable cost as per the Technical Auditor (in Rs crore)	Difference (in Rs crore)
RET N5 & E2	51	50.25	0.75
Enabling cost for taking over of carved out assets (NAD colony)	110	-	110.00
Cost of settlement of land	30	-	30.00
Project Cost	11,750	11,117.31	632.69
Escalation & Claims	450	450	-
Contingency	180	180	-
Total Project Cost	12,380	11,747.31	632.69

2.23. The difference in the project cost proposed by MIAL and project cost assessed by the Technical Auditor is Rs 632.69 crores. This difference comprises two elements:

2.23.1. Costs, which are disallowed and will not be included in the project cost

2.23.2. Costs, which may be included in the project cost, but are not being included presently. The inclusion of these costs into the project cost will be dependent upon completion of underlying activity and / or further submission of documentary evidences for inclusion of the same in the project cost.

2.24. Summary of cost elements recommended for disallowance / non-inclusion, by the Technical Auditor, in its report is as under:

Table 4: Summary of cost elements recommended for disallowance / non-inclusion by Technical Auditor

Sl. No.	Item	Proposed Disallowance* (Rs crore)	Proposed non-inclusion** (Rs crore)	Rationale
1.	Airside Projects		32.34	Taxiway cost for the taxiway N43B – II including cost of drain work, enabling work, excavation, duct bank, miscellaneous work, contractor profit, site overheads and VAT. This work can't be commenced before demolition of ATC Tower. As this expense has not been incurred yet, it should not be included in the project cost at this point of time.
2.	T1 Projects	54.00		MIAL is planning to handover the T1C hotel to the concessionaire, hence would start getting concession fee once it starts operating. This hotel has access from both landside and the terminal. Hence cost of T1C hotel should not be included in the project cost.
3.	T2 Projects	0.60		Rs 0.6 crore has to be deducted from project cost since it has been paid as penalty for the delay in getting clearance from MMRDA.
4.	Landside Projects	1.00		The projects involved in the landside are Realignment of Domestic Terminal Access Road (S-005) and New Domestic Terminal Car Park (S-012). MIAL proposed cost for these works is Rs 41 Crores while a reasonable value seems to be Rs 40 crores.

Sl. No.	Item	Proposed Disallowance* (Rs crore)	Proposed non-inclusion** (Rs crore)	Rationale
5.	Cargo Terminal at Sahar	50.00		As per RFP for Cargo Terminal at Sahar, the cost incurred in this project will be refunded by the BOT concessionaire. Hence, the cost of 50 crs should not be included in the project cost.
6.	Slum Rehabilitation and NAD Colony development		110.00	The Technical Auditor has not expressed its views on the matter of security deposit paid to MMRDA towards slum rehabilitation. As regards NAD colony, the Technical Auditor have said that the schedule for construction of NAD colony & associated works are not finalised till date, the cost of 110 Crores should not be included in Project cost at this point of time.
7.	Realignment of drain below the forecourt road			The Technical Auditor has found the cost proposed by MIAL as reasonable.
8.	Program Manager cost			The Technical Auditor has not taken a view on this issue stating that, “The financial impact of the above work may be worked out by Financial Auditor.”
9.	Upfront Fees to AAI	154		As per state support agreement- clause no 3.1.1, it is clearly stated that “the upfront fee payable by JVC to AAI under OMDA shall not be included as part of costs for provision of Aeronautical Services and no pass-through would be available in relation to same”.
10.	ATC Equipment & Technical Block		200.00	Since the schedule for construction of Technical block & associated works are not finalised till date, the cost of 200 Crores should not be included in Project cost at this point of time.
11.	Cost of relocation of Shivaji Memorial			The Technical Auditor has stated that, “Authority may take appropriate decision on construction cost of memorial include or exclude from project cost”.
12.	Airside Projects due to NATS	0.75		In estimation sheets for the construction of RET from N5 (Taxiways) 10% of has been taken for AGL, but at the same time for RET E2 is also in progress & 15% has been kept for AGL. The difference of 0.75 crores is overestimated. Hence, it should be excluded from project cost.
13.	Settlement of disputes related to Land		30.00	The settlement of land has not been finalised, which is under discussion with the owners. It may be considered after the settlement of land is finalised.
14.	Estimates without final design / Escalations & Contingencies			The Technical Auditor has found the cost proposed by MIAL as reasonable.
	Total	260.35	372.34	

* - Refer para 2.23.1

** - Refer para 2.23.2

2.25. Process related observations made by the Technical Auditor: Presenting its review of the project management techniques used by MIAL, the Technical Auditor highlighted certain issues noted by them. These included:

2.25.1. Detailed estimation has not been prepared by MIAL: The Technical Auditor noted that tendering for all the Sub-contract work Packages (SWP's) has been done by L&T along with MIAL team. However, no estimation has been done either by MIAL or L&T. Further, negotiations had been done with all the techno-commercially successful bidders on random basis and MIAL did not have their own cost estimates to compare the quotes given by Sub-contractors.

2.25.2. No regular monitoring of cost by PMC: The Technical Auditor noted that there was no regular monitoring of cost by PMC, though the PMC agreement required PMC to monitor actual cost and report forecast cost.

2.26. In conclusion, the Technical Auditor has stated that:

"The development of the airport has been done by a consortium, which has members who have proven technologies in their respective fields of Project implementation and has accordingly contributed towards project implementation till date. The cost incurred on the Project is somehow high but is in limit when benchmarked with other similar projects. However there are few instances in the Project execution where the cost is high.

The major cost increase is due to increase in enabling project cost, new additional projects & increase in prices of the material due to delay by 17 months in handing over the related area for Project execution.

The construction is being undertaken in the operational airport area, which resulted in constraint in land availability. Hence the material to be brought to the site had to be taken with utmost care so that there is nominal disturbance in operation of airport and discomfort of the passengers. It may also be noted that due to cross runways, the Upgradation of the runway, taxiway, RETs & apron has been done in phased manner to have nominal disturbance in operation towards the airside.

The risk premium of all major contributors in the Project implementation is remarkably high which has been shared by MIAL in totality. It seems that *the Main Contractor, sub-contractors/vendors seem to have worked out their rates by considering a substantial risk premium.*

The major variations during execution of any similar Projects should be got approved from MoCA/AAI before actually implementing it on ground. Cost estimates should also be ready with the developer before floating NIT or calling quotations from competitive bidders."

Audit report of the Financial Auditor

2.27. The scope of audit of the Financial Auditor covered the review of project cost estimation process including estimation of contingencies. The Financial Auditor has undertaken the following reviews:

2.27.1. Review of initial estimates: The Financial Auditor noted that MIAL in coordination with L&T and CH2M Hills have finalised the broad level engineering designs in December 2007. The Financial Auditor made two observations in the review of initial estimates. They observed that MIAL failed to communicate to its Board, AAI and MOCA about the cost of widening of elevated access road to the airport, although the same was known to the MIAL management. They further pointed out that the upfront fee should not be included in the project cost pursuant to provisions of the State Support Agreement.

2.27.2. Review of Contract Process: The Financial Auditor noted that MIAL have entered into approximately 1600 contracts for the project. The Financial Auditor has divided these contracts into two categories of EPC contract and Non-EPC contract. The Financial Auditor highlighted certain observations with respect to the contracting process of the EPC contractor, which has been discussed in para 2.31. They also indicated that change in approach of contracting for EPC works after awarding the contract led to the contract cost to be open ended, making cost control difficult. They also noted that the site overhead charges with respect to the EPC contract have not yet been finalised leading to an open ended contract. They also highlighted certain process issues with respect to appointment of the Program Management Consultants, which has been discussed in para 2.33.8

2.27.3. Project Implementation and Monitoring: In reviewing the project cost, the Financial Auditor made certain observations regarding certain project cost elements. These observations include MIAL's arrangement with HDIL for rehabilitation of slums and other residential colonies (discussed in para 2.33.6) and incurring avoidable costs including penalty paid (discussed in para 2.33.3) and inconsistent estimation norms (discussed in para 2.33.12).

2.27.4. Revised Project Estimates: The Financial Auditor identified certain costs where the activities were now proposed to be transferred to other entities – for instance development of international cargo terminal under BOOT basis, and hence not warranting inclusion in the project cost. They further identified certain costs which were ad-hoc / not incurred / etc. and did not warrant inclusion in the project cost in absence of supporting documentation, finality and actual incurrence.

2.27.5. Project Funding: The Financial Auditor made certain specific observations with respect to funding of the project utilising long term security deposits and internal cash accruals while recommending renegotiation with lenders for additional term loan. The Financial Auditor observed that long term / persistent security deposits (10 years or more) expected to be received from BOOT vendors and retail contracts have not been considered as means of finance by MIAL. These issues have been discussed in para 3.18 to para 3.21.

2.28. The Financial Auditor has clubbed all the audit observations, generated out of the above five activities, in three broad categories as under:

2.28.1. Financial observations: Observations under this category pertain to the Financial Auditor's assessment of warranted changes in project costs / funding. Summary of the financial observations has been presented in para 2.33.

2.28.2. Process observations: Observations under this category pertain to the Financial Auditor's assessment of certain processes followed by MIAL in award of contracts / other areas which have not been found acceptable by Financial Auditor. However, the Financial Auditor has not been able to quantify the impact of these observations. These have been discussed in para 2.34

2.28.3. Remedial suggestions: Observations under this category pertain to the Financial Auditor's suggestions on alternate approach that could be adopted by MIAL. These issues have been discussed in para 3.18.

2.29. The difference in the project cost proposed by MIAL and project cost assessed by the Financial Auditor is Rs 645.35 crores. This difference comprises two elements:

2.29.1. Costs, which are disallowed and will not be included in the project cost

2.29.2. Costs, which are not being considered in the project cost presently. The acceptance of these costs into the project cost will be dependent upon completion of underlying activity and / or further submission of documentary evidences for inclusion of the same in the project cost.

2.30. Summary of Project Cost elements recommended for disallowance / non-inclusion, by the Financial Auditor, in its final audit report is as under:

Table 5: Summary of cost elements recommended for disallowance / non-inclusion by Financial Auditor

Sl. No.	Item	Proposed Disallowance (Rs crore)	Proposed non-inclusion (Rs crore)	Rationale
1.	Airside Projects			The Financial Auditor has not expressed its views on this issue.
2.	T1 Projects			The Financial Auditor has not expressed its views on this issue.
3.	T2 Projects	0.60		Rs 0.6 crore as penalty for the delay in getting clearance from MMRDA
4.	Landside Projects			The Financial Auditor has not expressed its views on this issue.
5.	Cargo Terminal at Sahar	50.00		As per RFP for Cargo Terminal at Sahar, the cost incurred in this project will be refunded by the BOT concessionaire. Hence, the cost of 50 crs should not be included in the project cost.
6.	Slum Rehabilitation and NAD Colony development		135.00	Rs 25 crores deposited with MMRDA for slum rehabilitation is refundable and hence not considered in project cost. As the cost of Rs 110 crores budgeted by MIAL towards development of NAD colony is recoverable amount from HDIL, this should not be included in Project cost at this point of time.
7.	Realignment of drain below the forecourt road	2.00		Rs 2 crores deducted for realignment of drain
8.	Program Manager Cost	48.00		Program manager fee
9.	Upfront Fees to AAI	154		As per state support agreement- clause no 3.1.1, it is clearly stated that “the upfront fee payable by JVC to AAI under OMDA shall not be included as part of costs for provision of Aeronautical Services and no pass-through would be available in relation to same”.

Sl. No.	Item	Proposed Disallowance (Rs crore)	Proposed non-inclusion (Rs crore)	Rationale
10.	ATC Equipment & Technical Block		200.00	Since the schedule for construction of Technical block & associated works are not finalised till date, the cost of 200 Crores should not be included in Project cost at this point of time.
11.	Cost of Relocation of Shivaji Memorial		25.00	In absence of any mandate from relevant Authorities, cost of relocation of Shivaji Memorial should not be considered in the project cost at this point of time.
12.	Airside Projects due to NATS	0.75		In estimation sheets for the construction of RET from N5 (Taxiways) 10% of has been taken for AGL, but at the same time for RET E2 is also in progress & 15% has been kept for AGL. The difference of 0.75 crores is overestimated. Hence, it should be excluded from project cost.
13.	Settlement of disputes related to Land		30.00	The settlement of land has not been finalised, which is under discussion with the owners. It may be considered after the settlement of land is finalised.
14.	Estimates without final design / Escalations & Contingencies			The Financial Auditor has not expressed its views on this issue.
	Total	255.35	390.00	

2.31. Process related observations made by the Financial Auditor: Presenting its review of the processes followed by MIAL with respect to estimation of Project Cost, the Financial Auditor highlighted certain issues in terms of process deficiencies noted by them. These covered:

2.31.1. Definitive costs not included in Initial Estimates: While MIAL entered into agreement with the Mumbai Metropolitan Region Development Authority (MMRDA) on May 07, 2008 for bearing cost of widening of elevated road which would be the access road to the airport, the cost was not included in the initial project cost estimate of Rs 9,802 crores, presented in the Board Meeting of January 2009. The Financial Auditor noted that MIAL failed to communicate this cost and its assumption to its Board, AAI and MoCA, although the same was known to the MIAL management at the time of submission of its initial project cost estimates of Rs. 9,802 Crores.

2.31.2. L&T – Inadequate estimation of project cost: Based on documents for selection of the EPC contractor submitted by the bidders, Larsen & Toubro (L&T) and Italian Thai Development (ITD) bids were finally shortlisted based on technical qualifications. For financial bids, both the bidders submitted their estimate of the project cost (non-contractual) and the fee chargeable by them for such project. However, since the fee charged by both the bidders was in proportion to the total cost of the contract and both the bidders had estimated different project costs, the Company compared the two bids using a project cost of Rs 5,000 crores. L&T was finally selected as the total fee payable to the bidder at a contract cost of Rs 5,000 crores was lesser by Rs 37 crores.

Table 6: Comparison of L&T and ITD Bids

Particulars	L&T	ITD	Difference
Probable Project cost (Approx.), in Rs crore	5,800	4,500	1,300
Estimated project cost for selection, in Rs crore	5,000	5,000	-
Fixed Fee, in Rs crore	285	479	(194)
Percentage Fee	17.14%	14%	-
Percentage Fee Amount, in Rs crore	857	700	157
Total Fee payable, in Rs crore	1,142	1,179	(37)

2.31.3. The Financial Auditor noted that although the lowest bid was selected, the following points were observed in the process of selection of the EPC Contractor:

"The estimated contract cost of Rs 5000 crores was a rough average of the costs submitted by the bidders. The company did not compute its own estimate of the EPC portion during the bidding process. As such, the comparison of the fee percentages proposed by the two bidders could not be made in an objective manner.

Further, ITD had submitted a lower cost of the total contract. In the absence of any internal estimate of the contract cost, an objective assessment of the same is not possible.

No caps were set on the upper limit of the contract cost and/or the fee percentage, e.g. if the contract cost exceeded specified limit (say 110% of the submitted contract cost), reduced percentage fee to become applicable. This led to the contract remaining open ended and provided no incentive to the contractor to control costs."

At the total EPC cost of Rs 6,180 Crores (including free issue material), the fee payable to both the bidders will be equal. If the

EPC cost goes beyond Rs 6,180 Crores, ITD would be the cheaper alternative, As informed by MIAL, the total cost estimated for the EPC portion of the project is approximately Rs 5,759 Crores (as at July, 2011)."

2.31.4. <u>L&T – Change in approach leading to indefinite cost of project</u>: On the issue of approach on fixing the contract amount, the Financial Auditor noted as follows:

L&T was to fix the contract sum within 14 months from the contract date. This included complete schedule of design, procurement strategy and milestone to be achieved for each individual project and program as a whole. As per the contract, same should have been completed by December 31, 2008, i.e., 14 months from the date of contract with L&T.

However, as informed to us, based on nature of the site, MIAL and L&T adopted the approach of breaking down the whole project into small activities and awarding separate contracts for each individual activity after the completion of the design for respective package instead of program as a whole.

Change in the approach after awarding the contract has led the contract cost to be open ended however same cannot be quantified.

Since the contract with L&T is a cost plus contract, this approach makes cost control difficult. However, on reference, the technical auditors were of the view that the revised methodology is an appropriate approach as this was a Brown field project with various operational constraints.

2.31.5. <u>L&T – Site overheads payable to L&T not finalised</u>: The Financial Auditor also noted that as per the EPC agreement, L&T was to recover site overhead charges on actual. The Financial Auditor observed that the procurement certificates issued by the company to L&T for CWP & SWP did not include the site overhead charges. In November 2008, L&T submitted an initial estimate of site overheads at Rs 323 crores. The Financial Auditor recommended that the overheads be finalised at the earliest.

2.31.6. L&T – Inadequate Basis for providing the structure cost @ Rs. 1,100 per sq ft: The Financial Auditor noted that the contract with L&T provides for the maximum cost for structure work at Rs. 1,100 per sq ft with any escalation on any component except steel and cement to be finalised at the time of awarding procurement certificates. The Financial Auditor observed that no rates were requested in the RFQ or afterwards and detailed designs were not available at the time of contracting. The Financial Auditor also noted that on reference, the Technical Auditor found the price decided to be reasonable.

Comparison of project cost considerations by the Technical Auditor and the Financial Auditor

2.32. The Authority has noted from the reports of the Technical Auditor and the Financial Auditor that there are differences in the disallowances and non-inclusions proposed by them. The table below presents the value of disallowances and non-inclusions proposed by the auditors.

Table 7: Summary of cost elements recommended for disallowance / non-inclusion by Technical Auditor

(in Rs crore)	MIAL	Technical Auditor	Financial Auditor
Project cost proposed	12,380.00	11,747.31	11,734.65
Difference from MIAL	-	632.69	645.35
Disallowances	-	260.35	255.35
Non-inclusions	-	372.34	390.00

Authority's examination of the audit reports by the Technical Auditor and the Financial Auditor and disallowances / non-inclusions to Project Cost

2.33. The Authority examined the submissions of the Financial Auditor and Technical Auditors on the project cost proposed by MIAL & MIAL's contentions on the observations of the auditors and has held discussions with AAI. After perusal of documents, papers, specifically the audit reports, views submitted by AAI, and responses and submissions by MIAL, the Authority has come to the following tentative views in respect of MIAL's project cost.

2.33.1. **Airside Projects:** MIAL included Airfield projects pertaining to Runways, Taxiways, etc. and Apron under this head.

2.33.1.a. The Financial Auditor has not expressed any views on this head.

2.33.1.b. The Technical Auditor reviewed the Apron area proposed and reviewed the rates based on detailed BOQ provided by MIAL, MoRTH guidelines and prevailing rates of material in the market and reported that they found the cost estimate to be reasonable. They further reviewed the major works for both the runways and found the costs of Rehabilitation & Upgradation of the runways reasonable.

2.33.1.c. On the Taxiway works, the technical auditor reported that the cost of Rs. 32.34 crores on taxiway N43B-II works had not been incurred and should not presently be included in the Project Cost. They further stated that the same can be considered after commissioning of the works related to taxiway N43B-II.

2.33.1.d. On this issue, AAI stated that the Authority may take an appropriate decision based on the Technical Auditor's report in this regard.

2.33.1.e. The report of the Technical Auditor recommends non-inclusion of the above cost of Rs 32.34 crores on account of the works not having been incurred presently.

2.33.1.f. The Authority noted that since the Technical Auditor has not objected to the above cost on technical grounds, the same could be included as part of the Project Cost subject to the condition that such cost may actually be incurred. Accordingly, the Authority is of the tentative view that the cost of Rs 32.34 crores should presently not be included in the Project Cost.

2.33.2. **T1 Projects:** T1 Projects included New Domestic Terminal T1C, Renovation & Upgradation of T1A Terminal, and T1C Hotel. The Technical Auditor has expressed certain observations on cost pertaining to T1C hotel, while noting that the costs of other components seemed reasonable.

2.33.2.a. The Authority in its Order No. 02/2012-13 dated 18.04.2012 had deducted Rs. 26 crores i.e. the cost of the Hotel from the funding gap then being considered for bridging through levy of DF as the Hotel was indicated by AAI as a Non-Aeronautical Asset (transfer asset as indicated by MIAL).

2.33.2.b. The Financial Auditor has not expressed any views in this regard.

2.33.2.c. The Technical Auditor has indicated in their final audit report that the cost of the Hotel got revised to Rs. 54 Crores and that MIAL is planning to handover the Hotel to a concessionaire to complete the furnishing, and operate the same and MIAL will be receiving revenue from concessionaire once it starts operating. The Hotel is reported to have access from landside and from the terminal and is as such a non-aeronautical asset. The Technical Auditor has recommended that the same should not be included in the project cost. However, they have added that *"the same can be considered by Competent Authority for levy of DF."*

2.33.2.d. AAI has stated that the Authority may take an appropriate decision based on the Technical Auditor report in this regard.

2.33.2.e. MIAL have stated that T1C hotel is envisaged in the Master Plan and during review of Master Plan by MOCA / AAI, no adverse comment has been made for the same. The operating model is similar to other commercial projects such as duty free retail, car park, etc. in which MIAL have incurred the cost to develop the asset for the convenience of the passengers, but has concessioned the operations and management to specialised agencies to allow MIAL to focus on airport operations. MIAL submitted that thirty percent (30%) of the revenues received by MIAL from such concession would be utilised for subsidising aeronautical tariffs.

2.33.2.f. MIAL also stated that if the Technical Auditor's view is given credence to, it could lead to an "inappropriate" conclusion that all capital cost which generates revenue needs to be excluded from Project Cost for the purpose of DF as it can be easily established that there is a funding from other sources also.

2.33.2.g. MIAL further stated that the hotel will predominantly service passengers travelling to and from domestic terminal. According to MIAL, as per definition of Transfer Asset under OMDA, T1C Hotel is a Transfer Asset and should be included in the project cost. They have also brought up an issue that if the same is excluded from the project cost it would "tantamount" to AAI treating the asset as Non-Transfer Asset.

2.33.2.h. The Authority notes that the assets of MIAL as per SSA and OMDA can be classified into the following categories:

- Aeronautical Assets
- Non-aeronautical Assets
- Non-transfer Assets

The definition of non-aeronautical asset, as provided in OMDA, is reproduced below,

> *"……….*
>
> *2. all assets required or necessary for the performance of Non-Aeronautical Services at the Airport as listed in Part II of Schedule 6 hereof as located at the Airport (irrespective of whether they are owned by the JVC or any third Entity), to the extent such assets (a) are located within or form part of any terminal building; (b) are conjoined to any other Aeronautical Assets, asset included in paragraph (i) above and such assets are incapable of independent access and independent existence; or (c) are predominantly servicing/ catering any terminal complex/cargo complex"*

Further the definition of non-transfer asset, as provided in OMDA, is reproduced below,

> *""Non-Transfer Assets" shall mean all assets required or necessary for the performance of Non-Aeronautical Services as listed in Part II*

of Schedule 6 hereof as located at the Airport Site (irrespective of whether they are owned by the JVC or any third Entity), provided the same are not Non-Aeronautical Assets."

2.33.2.i. Considering the definitions above, as T1C hotel has access from both landside and from terminal, it does not appear to the Authority to fall under the definition of non-aeronautical assets. Further from the definitions above, it appears that T1C hotel is a non-transfer asset. Accordingly the Authority is of the tentative view to treat T1C hotel as a non-transfer asset and amount of Rs 54 crores in respect of the same to be disallowed / excluded from the project cost.

2.33.2.j. However, since these definitions are provided in SSA / OMDA, the views of AAI / Government on proper categorisation of this asset will be important. If it is concluded that T1C hotel is a non-transfer asset, it will not form part of project cost and the revenue generated from this asset will not be considered towards determination of tariff. On the other hand, if it is concluded that T1C hotel is a non-aeronautical asset, it will form part of project cost, but not of RAB (Aeronautical), and the revenue from this asset will be considered towards cross-subsidisation and determination of aeronautical tariff under Shared Till.

2.33.3. **T2 Projects:** T2 Projects included amalgamation of terminals T2 B and C, new common user terminal, new Sahar terminal access road, enabling works of T2, police station, etc.

2.33.3.a. The Technical Auditor noted that as per MDP, the area of new Terminal Building T2 was 420,897 sqm (total area of 450,897 sqm including area of arrival plaza of 30,000 sqm) to cater to 40 million passengers per annum. The Technical Auditor further noted that the total area, as per drawings provided by MIAL to the Technical Auditor, was 4,53,357 sqm. However, the actual area to be constructed by MIAL is 4,39,512 sqm in Phase I, II & III. This area has been verified and accepted by the Technical Auditor. The balance area of approximately 13,845 sqm which is part of South-East pier has not been planned to be constructed at this point of time. Cost pertaining to development of this area of 13,845 sqm has not been included in the project cost of Rs 12,380 crores as proposed by MIAL. The Technical Auditor has not provided any further comments on this issue.

2.33.3.b. Both the auditors have indicated that a sum of Rs. 0.60 crores, paid as penalty charges for delay in getting clearance from MMRDA, for the construction of police station should be reduced from the total project cost.

2.33.3.c. AAI in their observations have indicated that the Authority may agree with the observations of the auditors.

2.33.3.d. MIAL contended that relocation of the police station from Sahar was an enabling project for New Common User Terminal and that delay in construction of terminal would have essentially resulted in cost escalation including interest during construction.

2.33.3.e. MIAL applied for permission of MMRDA and got permission up to plinth level. The permission beyond plinth level was delayed because of certain site constraints coming in the way of approval. MIAL contended that as permission to relocate police station from relevant authorities was already delayed by more than 8 months, MIAL considered it essential to complete this project in anticipation of approval from MMRDA to facilitate timely completion of terminal. MIAL requested that based on the above, the penalty paid should be considered as part of the Project Cost as it was paid to avoid potentially larger cost overrun.

2.33.3.f. The Authority is of the opinion that it cannot accept any penalty as legitimate part of the Project Cost.

2.33.4. **Landside Projects:** The projects under this head were mandatory capital projects of OMDA pertaining to realignment of Domestic Terminal Access Road and New Domestic Terminal Car Park. MIAL have estimated the cost of such works at Rs 41 crores.

2.33.4.a. The Financial Auditor has not expressed their views in this regard.

2.33.4.b. The Technical Auditor has found the total costs of landside works at Rs. 40 crores as reasonable.

2.33.4.c. AAI in their observations have indicated that the Authority may agree with the observations of the auditors.

2.33.4.d. MIAL did not provide any specific views in this regard.

2.33.4.e. The Authority is of the opinion that the difference in project cost of Rs. 1 crores (cost shown by MIAL being higher than that found reasonable by the Technical Auditor) should be excluded from the Project Cost.

2.33.5. **Cargo Terminal at Sahar:** MIAL had commenced works for development of cargo terminal at Sahar, however later decided to outsource the cargo operations to concessionaire(s).

2.33.5.a. The Financial Auditor observed that an expenditure of Rs. 60 crores was earmarked for Cargo Terminal before the same could be transferred for development on concession and recovered from the concessionaire as per the RFQ. Based on MIAL's clarification that it intends to recover only Rs 50 crores and not the initial capital cost of Rs 10 crores, the Financial Auditor opined that Rs. 50 crores should accordingly not form part of the project cost.

2.33.5.b. The Technical Auditor in their audit report stated that:

"… cost of Cargo terminal of 255 crs was included in the initial cost estimates of 9802 crores and later the project has been planned to shift to BOT basis. However, provision of 50 crs as enabling cost is included in 12,380 crs. As per RFP, the cost incurred in this project will be refunded by the BOT concessionaire. Hence, the cost of 50 crs should not be included in the project cost.

The Cost incurred for MCP work (International Cargo Terminal S-002,) was 10 Crs which has to be part of project cost (completed on March 2008) …"

2.33.5.c. MIAL have further supplemented this distinction and stated that the MCP involved extension of storage shed and the amount is not recoverable from prospective concessionaire. They have stated that there is no reason to exclude the cost of Rs. 10 crores from the project.

2.33.5.d. AAI have stated that the Authority may include such cost in the project cost to the extent of Rs. 10 crores.

2.33.5.e. The Authority is of the tentative view that the cost recoverable from the cargo concessionaire of Rs. 50 crores could be excluded from the project cost.

2.33.6. **Slum Rehabilitation & NAD Colony Development:** MIAL have to undertake the rehabilitation of slum and development of NAD colony. In this regard, MIAL have deposited a security of Rs 25 crores with MMRDA and budgeted an amount of Rs 110 crores as cost of resettlement of NAD colony.

2.33.6.a. The Financial Auditor in their audit report noted that MIAL had paid Rs. 25 crores to MMRDA in 2006, which was supposed to be recovered from HDIL – an entity with which MIAL had entered into an arrangement in October 2007 for rehabilitation of slums and other residential colonies. The Financial Auditor recommended that cost to the extent of Rs. 25 crores (recoverable expenditure) not be included in the project cost.

2.33.6.b. The Financial Auditor also noted that MIAL had estimated Rs. 110 crores as cost of resettlement of NAD colony in the current project cost of Rs. 12,380 crores. However, use of the land is not finalised. The Financial Auditor also noted that that while MIAL have opted to undertake the activity themselves, as per contract, MIAL can transfer the activity to HDIL during the execution as well and if HDIL accepts, it has to reimburse the expense incurred by MIAL.

2.33.6.c. The Financial Auditor further noted that prior to finalisation of their report, MIAL submitted that MIAL's Board has decided to cancel the contract with HDIL and proceed with legal action. The Financial Auditor was awaiting copy of the minutes of the meeting at the time of finalisation of its report. The Financial Auditor submitted that the Authority may review the disallowance based on such submission from MIAL.

2.33.6.d. The Technical Auditor noted that since the schedule for construction of NAD colony & associated works are not finalised till date, the cost of 110 Crores should not be included in Project cost at this point of time. However, it also noted that the same can be considered by Competent Authority for levy of DF only after commissioning of NAD colony development.

2.33.6.e. AAI has opined that the Authority may agree with the observations of the auditor subject to furnishing of documents by MIAL.

2.33.6.f. Apart from the submission noted above, MIAL stated that NAD colony development plans are in final stages. Technical Block and Meteorological facilities are to be relocated to NAD Colony, which cannot be done unless densification of NAD Colony is done first. The cost of Rs. 110 crores estimated is towards densification and was considered essential to be included in the project cost.

2.33.6.g. The Authority is of the tentative view that both these sums – Rs. 25 crores and Rs. 110 crores should presently not be included in the project cost till further substantiation/ action is observed from MIAL with respect to work/ action on ground.

2.33.7. **Realignment of drain below the forecourt road**: A proposal for realignment of an open drain passing through the airport land had been finalised by MCGM.

2.33.7.a. The Financial Auditor in its audit report noted

Company had entered into arrangement with government authority at Rs. 33 crores for the realignment of an open drain diagonally passing through the land between the elevated forecourt road. Part of the realignment is being done to free up the area between the elevated forecourt roads and to ensure hassle free usage during the city side development.

Considering the nature and objective of expense, we believe that such realignment was not necessitated for development of the airport and as such additional cost incurred to free the land surrounded by elevated road should be excluded from the project cost.

2.33.7.b. Hence according to the Financial Auditor, the additional cost incurred to free the land mentioned above should be excluded. According to them,

"The issue was referred to the technical auditors, who estimated the additional cost incurred at Rs 2 crore. In our opinion, the same should not be included in the project cost."

The Authority also took note of the observations of the Technical Auditor in this matter (Para – 5.10 of Technical Auditor's report). The Technical Auditor have stated that,

"The estimation for the realignment of Drain was 106.15 Crores (including covers of drains) against the original cost of 76.69 Crores and there was a difference of cost of 29.46 Crores from the original estimate of MCGM. Hence, an agreement (Refer Annexure-VII) was signed between MCGM & MIAL to bear the increase in cost plus 10% contingency of the same by MIAL.

The total estimated cost for the cover section is 35.29crs which has to be constructed for the purposes explained in the above table. While, MIAL has to bear only a cost of 33 Crores as per the agreement signed. As per the Auditor, the cost to be paid by MIAL to MCGM seems to be reasonable."

The Authority notes that the Technical Auditor has indicated the additional cost to be borne by MIAL at Rs 29.46 crores plus 10% contingency, amounting to Rs 32.406 crores. This figure, it appears to the Authority, that the Technical Auditor have rounded it off to Rs 33 crores. The Technical Auditor has opined that this cost to be paid by MIAL to MCGM seems to be reasonable. Though the Technical Auditor has not stated so specifically, the Authority infers that, according to Technical Auditor, Rs 2 crores additional cost, should be reasonably included in the project cost, and not disallowed.

2.33.7.c. Airports Authority of India gave their comments on the issue of cost of realignment stating that, *"AERA may take appropriate decision based on Auditor's observation."*

2.33.7.d. MIAL submitted that rerouting of drain along carriage way C1 was essential for construction of proposed at-grade road portion as part of the Elevated Road System and covering of the drain C1 was part of existing road crossing the proposed drain layout. Further, they stated that covering of drains C2 & C3 were required for movements of construction vehicles. MIAL further submitted that it is executing the works with restricted areas available for construction vehicles movement and covering drains C2 & C3 was required for facilitating construction activities. MIAL requested the Authority to include the above cost in total project cost.

2.33.7.e. The Authority noted the different observations as above and felt that the cost of Rs 2 crores identified, should be excluded from the project cost.

2.33.8. **Program Manager cost:** The Financial Auditor in their audit report noted that MIAL awarded the contract to CH2M Hills as Program Management Consultants to review the design and schedules given by EPC contractor from the proprietary angle of MIAL.

2.33.8.a. The Financial Auditor presented the following observations on the selection process:

- *"Out of the bids received, the 4 parties were shortlisted as technically qualified and were invited for financial bidding.*
- *Coteba and Maunsell (L1 and L2) had initially qualified the technical rounds but were rejected on technical grounds after opening of financial bids. In case, the two parties were not technically qualified, they should have been rejected in*

the technical round and the financial bid should not have been opened.

- *Dar was invited for bidding after the opening of the financial bids. This is not a preferred practice for vendor selection procedure.*
- *CH2M Hill originally quoted at Rs. 62.99 crores and was negotiated at a price of Rs. 46.50 crores. However, no negotiations were opted for other bidders.*
- *The company opted to pay an amount which was 25% more per annum than the lowest bidder leading to additional cost of approximate Rs. 48 Crore over the estimated project timeline."*

2.33.8.b. Considering the same, the Financial Auditor submitted that the additional cost of Rs. 48 Crores should not be included in the total project cost for DF.

2.33.8.c. The Financial Auditor also referred this issue to the Technical Auditor. The Technical Auditor felt that the ground for rejection of L1 and L2 bidders were justified. They agreed that the two parties should have been rejected in the technical round itself. In their view only DAR and CH2M Hill were technically qualified and the difference between the quotations of Dar & CH2M Hills of Rs. 2.07 crores should only be excluded.

2.33.8.d. AAI have submitted that the Authority may agree with the views of the Financial Auditor on the matter (that is to say, exclude Rs 48 crore).

2.33.8.e. MIAL submitted that it ran a competitive bid process for identification of the preferred program management consultant. They agreed there was no need to open financial bids of the two non-responsive bidders. However, in order to broad base bidders, bid was invited from one more bidder viz. Dar Al Handasah (DAH). MIAL decided to proceed with CH2M Hill considering it was already associated with MIAL and had a team working at

CSIA. It was thought appropriate that selection of CH2M Hill would result in significant benefits by way of time saved in mobilisation and other benefits which come from familiarity with the project. MIAL submitted that the Financial Auditor had erred in comparing the price of a technically non competent vendor as the base to arrive at the disallowance of Rs 48 crores.

2.33.8.f. The Authority notes the observations brought out by the Financial Auditor on an important aspect of contracting process and also notes the views of AAI on the matter. Given the background on this issue, the Authority is of the tentative view that Rs. 48 Crores should be excluded from the project cost.

2.33.9. **Upfront Fee to AAI:** At the stage of privatisation of the Chhatrapati Shivaji International Airport (CSI Airport) Mumbai, MIAL had paid an Upfront Fee of Rs. 150 crores to the AAI as per the provisions of the OMDA. MIAL had further paid an amount equivalent to Rs 3.85 crores to AAI towards carving out of additional land of 48.15 acres. MIAL considered Rs 153.85 crores (=150+3.85 crores) to be a pre-operative expense and included the same in the project cost.

2.33.9.a. Both the auditors have recommended the Upfront Fee to be disallowed from the Project Cost. The auditors have given the rationale for such disallowance that as per state support agreement- clause no 3.1.1, wherein it is clearly stated that *"the upfront fee payable by JVC to AAI under OMDA shall not be included as part of costs for provision of Aeronautical Services and no pass-through would be available in relation to same".*

2.33.9.b. AAI in their observations have indicated that the Authority may agree for not inclusion of Upfront Fee in the Project Cost.

2.33.9.c. The Authority had discussed the treatment of Upfront Fee in detail in Order No. 28/2011-12 in the matter of levy of Development Fee by Delhi International Airport (P) Ltd. (DIAL) at IGI Airport, New Delhi. The Authority had recognised that if the Upfront Fee, which is not to be made part of the cost for provision of aeronautical services and thereby is not supposed to be recovered through aeronautical charges, is recovered through DF such recovery may not be entirely in line with, at least the spirit, of the contractual provisions and had excluded the Upfront Fee from the project cost of DIAL.

2.33.9.d. The Authority also notes the following:

i) Clause 11.1.1 of the OMDA provides as under:

"The JVC shall pay to the AAI an upfront fee (the "Upfront Fee") of Rs 150 Crores (Rupees one hundred and fifty Crores only) on or before the Effective Date."

Therefore, the Upfront Fee was to be paid by MIAL either before or on the date of taking over the project from the amounts that would have been available with them.

ii) Further, as already brought out above, in terms of article 3.1.1. of the SSA, the upfront fee is not to "*be included as part of costs for provision of Aeronautical Services and no pass-through would be available in relation to the same*".

iii) It would appear from records that while considering the request of MIAL for approval of DF in respect of CSI Airport, Mumbai, MoCA had not taken into account the upfront fee of (Rs.150 crores) paid for calculation of DF.

2.33.9.e. In view of the above, the Authority feels that the Upfront Fee of Rs. 153.85 crores should not be included in the total project cost.

2.33.10. **ATC Equipment & Technical Block:** The Auditors noted in their reports that ATC Tower & Technical Block were to be relocated for construction of Code 'F' compliant taxiway parallel to Runway 14-32. The structure cost of ATC Tower was estimated at Rs 80 crores and a provision of Rs 110 crores made for procuring and installing equipment in the ATC Tower. The cost for construction of the Technical Block and associated works has been estimated at Rs 200 Crores.

2.33.10.a. The Financial Auditor observed that while the estimated cost for the Technical Block is Rs 200 crores, the timeline for relocation is yet to be decided and hence this amount should not be included in the project cost.

Further, that out of projected Rs 80 crores as the cost of construction of new ATC Tower, only Rs 40 crores has been approved by AAI.

2.33.10.b. On the same issue, the Technical Auditor expressed its opinion that since the schedule for construction of Technical block & associated works are not finalised till date, the cost of Rs. 200 Crores should not be included in Project cost at this point of time. The Technical Auditor further said that the same can be considered by Competent Authority for levy of DF only after commissioning of Technical block & associated works.

2.33.10.c. AAI has expressed that the Authority may agree with the auditor's observation and the cost may be deferred at this stage.

2.33.10.d. MIAL stated that relocation of ATC Tower and Technical Block was a necessity, primarily for compliance with the Obstacle Limitation Surface (OLS) and taxiway clearance standards specified by DGCA and ICAO. The relocation project was to commence in 2012 after approval from AAI and expected to be completed in 18 months from the date of approval.

2.33.10.e. MIAL further stated that the ATC Tower and Technical Block are mandated infrastructure with a specified timeline for implementation. MIAL submitted that the project cost may be trued up in future based on actual expenditure incurred and used as the basis for review of DF.

2.33.10.f. MIAL also submitted that the levy of DF is a pre-funding mechanism for development of airport assets. A capital intensive project such as an airport may require DF as one of the funding source and if without DF the technical block could be constructed, then DF was not required. They have therefore contested the observation of the Technical Auditor that levy of DF should be considered by the Authority after commissioning of technical block and associated works.

2.33.10.g. The Authority is of the opinion that since costs towards relocation of the Technical Block have not yet been incurred, the same may not be included in the project cost at this stage. In case the Authority receives documentation / substantiation from MIAL confirming execution of the works before the issue of the Multi Year Tariff / DF Order, the amount of Rs 200 crores or part thereof may be included in the project cost as relevant for the present control period.

2.33.11. **Relocation of Shivaji Statue:** The Financial Auditor noted in their audit report that MIAL budgeted for the following expenditure as part of project cost towards relocation of Shivaji Statue from its initial position in front of the existing Terminal 2 building to a new prominent location and construction of new Shivaji Memorial.

Table 8: Expenditure towards relocation of Shivaji Statue

Sl. No	Activity	Budgeted Amount (in Rs. crore)	Commitment Made (in Rs. crore)	Balance Commitment (in Rs. crore)	Status of Activity
1	Shivaji Memorial	25	-	25	Yet to be incurred
2	Relocation of Shivaji Statue	4	3	1	Completed
3	Works (Shivaji Statue related)	6	4	2	Yet to be incurred
	Total	35	7	28	

2.33.11.a. The relocation was necessitated by the fact that the initial position of the Shivaji Statue was in the middle of the footprint of the new planned Terminal building. Without moving the same, it would not have been possible to construct and develop the airport.

2.33.11.b. The Financial Auditor has indicated that, based on their review, the relocation cost of Rs. 4 crores seemed necessary as the statue was in the footprint of the new terminal building.

2.33.11.c. The Financial Auditor also indicated that while MIAL considers the activity pertaining to Shivaji Memorial as Mandated Project, no communication from either Government of Maharashtra or Ministry of Civil Aviation, or any other statutory authority was available. The Financial Auditor stated that accordingly they cannot comment on whether the same was mandated to MIAL or not and suggested that the same not be included in the project cost. The Technical Auditor had indicated that the preliminary estimate for the same seemed reasonable.

2.33.11.d. AAI have submitted that the Authority may take an appropriate decision based on Auditor's observation.

2.33.11.e. MIAL submitted that copy of its communications with the Government of Maharashtra (GoM) had been provided to the Auditors. The letter from GVK to Secretary, GAD, Government of Maharashtra states as under,

> *"……. Accordingly in the meeting held with Hon'ble Chief Minister on 9th May, 2011, a concept plan of proposed memorial was presented by MIAL alongwith statue of Chhatrapati Shivaji Maharaj on a pedestal, with fountains, lighting, landscape area and parking.*
>
> *As mentioned above, the memorial is proposed to be set up at proposed entrance to elevated road on WEH leading to new Integrated Terminal at CSIA. We seek your approval for setting up such memorial. Cost of setting up such memorial is estimated to be Rs 25 crores.*
>
> *Though, in the past, during various discussions, it was mandated that MIAL had to bear the cost of this memorial, which is estimated to be Rs. 25 crores, we need a line of confirmation from State Government that cost is to borne by MIAL."*

2.33.11.f. Response from the Government of Maharashtra was as under,

> *"……….Please note that any proposal for erecting a Statue of a historical/national personality, is processed as per the guidelines issued vide G.R. No. Smarak / 3102/884/ CR. 122/2002/29 dated 2.2.2005. A copy of the same is forwarded herewith for further necessary action, Your may formulate necessary proposal and submit the same to the Government, through Collector, Mumbai Suburban District, so as to enable us to take appropriate decision in this regard.*
>
> *As regards to expenditure involved in erecting the Memorial/ Statute, kindly note that the same will have to be borne by MIAL."*

2.33.11.g. The Authority notes that while reference to the meeting(s) being indicated by MIAL have been made explicit in the letters provided to the Authority, the Government of Maharashtra has not specifically required / specified the amount of Rs. 25 crores towards the Shivaji Memorial. It was also not clear to the Authority that MIAL's estimated cost towards this work was on account of adherence to the guidelines forwarded by Government of Maharashtra as per the above correspondence. The Authority is of the tentative view that such cost would not be included as part of the project cost at present. The Authority can further consider this aspect based on any inputs from Government of Maharashtra / Government of India on the said requirements.

2.33.12. **Airside project due to NATS recommendation:** MIAL made an estimate towards Airport Ground Lighting (NATS recommended project) to improve the airside capacity.

2.33.12.a. The Financial Auditor observed that provision estimated under the project was overestimated by Rs 0.75 crore based on the inconsistency between two AGL estimated under same project.

2.33.12.b. The Technical Auditor noted that RET E2 and N5 are new projects added in the project cost estimates. They observed that while cost of airport ground lighting has been estimated at 10% of cost for RET N5, cost of airport ground lighting has been estimated at 15% of cost for RET E2. The Technical Auditor found this difference to be an overestimation and recommended the same for exclusion from the project cost.

2.33.12.c. AAI observed that the Authority may agree with the observations of the Technical Auditor.

2.33.12.d. MIAL stated that the provision for AGL is project specific and could vary from project to project depending on the nature, scope and requirement of the project. Provision for AGL in the estimate was made based on the specific requirement of respective projects and therefore cannot be compared with other project.

2.33.12.e. After consideration of the opinions expressed by the Auditors, response from MIAL and perusal of submissions, the Authority is of the opinion that this amount of Rs 0.75 crore will be excluded from the project cost.

2.33.13. **Removal of encroachment of airport land:** The Financial Auditor in its report has termed this as cost of settlement of land. The Financial Auditor stated that MIAL estimated a sum of Rs. 30 crores to settle disputes pertaining to the land encroached at CSI Airport. The Auditors were informed that MIAL is in talks in this regard. However, documents in this respect were not made available to the Auditor for review.

2.33.13.a. The Financial Auditor opined that until the final settlement of the disputes or actual expenditure and the determination of the final utility of the land pocket is ascertained, this cost should not be included as a part of project cost.

2.33.13.b. On this issue, the Technical Auditor has noted that the settlement of land has not been finalised which is under discussion with owners. The Technical Auditor also recommended that this amount may be considered after the settlement of land is finalised.

2.33.13.c. AAI has said that the Authority may take appropriate decision in this regard.

2.33.13.d. MIAL submitted that discussions are at an advanced stage to settle the matter and therefore the amount should be included in the project cost. MIAL stated that otherwise, MIAL would not be in a position to make the payment on settlement which could adversely affect implementation of the project. MIAL further stated that this had also been approved by the Board of Directors of MIAL after discussions and considering all the facts of this matter.

2.33.13.e. After consideration of the opinions expressed and submissions from MIAL, the Authority is of the tentative view that this amount of Rs 30 crores should presently not be included in the project cost for the current control period.

2.33.14. **Escalations & Contingencies:** MIAL estimated escalations and contingencies including claims at Rs 630 crores as part of the project cost of Rs 12,380 crores.

2.33.14.a. The Technical Auditor has indicated in its report that MIAL estimated Rs 250 crores towards escalation including delay in T2 CWP works, elevated road, grade road, airside works & other miscellaneous works and Rs 200 crores as claims for T2 cost (anticipated claims), design service cost and EPC contractor overhead cost due to time extension of 17 months. They noted that while T2 anticipated claims for idling of labour, machinery & equipment were 102 crs; claims already raised by various vendors other than L&T were Rs 122 crores. They submitted that claims at Rs 102 crores could be considered as part of project cost. They also noted that escalation cost estimated seemed reasonable.

2.33.14.b. The Technical Auditor noted that contingency worth Rs 180 crores has been estimated by MIAL towards power charges, water charges, house-keeping works and change orders, which they found to be reasonable.

2.33.14.c. However, the Technical Auditor have opined that the Escalations, Claims & Contingencies have to capped at its present estimated value of Rs 630 crores to avoid overrun of project cost.

2.33.14.d. MIAL submitted that considering extended timelines and uncertainties involved, actual Escalation, Claims & Contingencies may be considered and not cap imposed on this head.

2.33.14.e. Authority noted that MIAL have already received claims of Rs. 122 Crores which does not include claims from L&T. In view of the Auditor recommendations, the Authority is of the tentative view that the Technical Auditor's suggestion of capping the Escalation, Claims & Contingencies at Rs. 630 crores to avoid overrun of project cost should be accepted.

Authority's views on Process-related observations of the Auditors

2.34. The Authority further noted that in addition to the observations presented by the Technical and Financial Auditors, there are process related observations submitted by the Financial Auditor in its report. These observations are related to certain processes followed by MIAL in award of contracts or other areas, which have not been found to be an acceptable practice by the Financial Auditor.

2.35. It also noted that both the Auditors have stated that these process issues have led to increase in the project cost. However, they have not ascribed any additional cost specifically to these items. They have stated that it is difficult and subjective to assess the impact of the process related issues in quantitative terms. The Authority had considered these issues along with submissions from MIAL essentially presenting certain contentions on these aspects.

2.36. It was noted that MIAL is a board managed company with representations from AAI and MoCA at sufficiently senior levels. It was also noted that the most of the contracts in this project have already been awarded and that project is under advanced stage of implementation. Therefore, any corrections or remedial measures do not appear to be feasible at this stage of the project. In view of the inability of the auditors to further quantify or identify losses in monetary terms due to process issues, the Authority finds itself unable to take any further action in the matter. As noted in para 2.33.8, on the process related observation where financial impact could be ascertained, viz payment to Program Manager, the Authority has considered the issue and formed a tentative view of the financial treatment on the matter.

2.37. On the specific process issue of sites overheads not having been finalised highlighted by the Financial Auditor, the Authority notes MIAL's submission that it has finalised site overheads for the period upto August 2013 when the International Terminal is envisaged to be ready and commitment that it shall endeavour to ensure that the total cost of site overheads are within the budgeted amount in the Project Cost. Also, the Authority proposes to cap the overall project cost as mentioned in Tentative Decision No1 including the issue of site overheads.

Summary of discussions on Project Cost

2.38. Based on the above, the summary of project cost that the Authority is presently considering (Rs crore) is as follows:

Table 9: Project Cost summary, considered for Tariff Determination

Description	Revised Cost-II (Oct 2011), in Rs crore	Cost disallowed, in Rs crore	Cost not presently included, in Rs crore	Project Cost being considered, in Rs crore
T1 Projects	453	54.00		399.00
T2 Projects	5,083	0.60		5,082.40
Runway, Taxiway & Apron	1,545		32.34	1,512.66
Landside projects	41	1.00		40.00
Miscellaneous projects	562	52*	25**	485.00
AAI works taken over (5.4 of OMDA)	24			24.00
Technical services & Consultancies	834	48.00		786.00
Capital expenditure for Operations	118			118.00
Pre-operative Expenses	684			684.00
Capitalised Interest	1,410			1,410.00
Upfront Fee paid to AAI***	154	153.85		-
ATC Equipments cost & Technical block in NAD colony	310		200.00	110.00
Contribution to MMRDA for sahar elevated road	166			166.00
WHSS-Shivaji Smarak / Memorial	25		25.00	-
Mithi River realignment	150			150.00
RET N5 & E2	51	0.75		50.25
Enabling cost for taking over of carved out assets (NAD colony)	110		110.00	-
Cost of settlement of land	30		30.00	-
Project Cost	11,750			11,017.46
Escalation & Claims	450			450.00
Contingency	180			180.00
Total Project Cost	12,380	310.20	422.34	11,647.46

* - Disallowance including disallowance of Rs 50 crores discussed in para 2.33.5 on the issue of cargo terminal at Sahar and Rs 2 crores discussed in para 2.33.7 on the issue of realignment of drain

** - Disallowance of Rs 25 crores discussed in para 2.33.6 on the issue of slum rehabilitation and NAD colony development

*** - It may be noted that the project cost of Rs 12,380 crores, submitted by MIAL in its MYTP, was based on value of Upfront Fee of Rs 153.85 crores. The same has been shown as Rs 154 crores after rounding-off. However, for the purpose of determination of total disallowances to be considered by the Authority, the full amount of Rs 153.85 crores has been considered.

2.39. The Authority notes that the total project cost of Rs 11,647.46 crores being considered by the Authority is capped for the current control period but could increase in the next control period by the quantum of non-inclusions (presented in the 3rd column in the table above) or parts thereof depending upon the completion of underlying activity / evidence-based submissions. Further, the Authority also notes that cost corresponding to construction of the South-East pier of new Terminal Building T2 (of an area of 13,845 sqm) has not been included in the project cost of Rs 12,380 crores as proposed by MIAL, as the same has not been planned to be constructed presently.

Tentative Decision No1. Regarding Project Cost:

1.a. **The Authority tentatively decided to consider the allowable project cost of Rs 12,069.80 crores, which includes Rs 11,647.46 crores as allowable project cost during the current control period and Rs 422.34 crores as cost of projects not included in the current control period.**

1.b. **The Authority tentatively decided to disallow Rs 310.20 crores from the project cost proposed by MIAL.**

1.c. **In view of the above, the Authority tentatively decided that it will reckon the project cost of Rs 11,647.46 crores as the basis for determination of RAB for the current control period.**

1.d. **The Authority also tentatively decided to cap the project cost at Rs 12,069.80 crores based on the proposed dis-allowances / exclusions. Cost of projects, which are not included in the project cost for the present control period, is Rs 422.34 crores.**

1.e. **In view of the Auditor recommendations, the Authority tentatively decided that the Technical Auditor's suggestion of capping the Escalation, Claims & Contingencies at Rs. 630 crores to avoid overrun of project cost should be accepted.**

2.40. The impact of disallowances from the project cost on the 'X' factor has been analysed as under:

Table 10: Sensitivity - Impact on X- Factor from disallowances and non-inclusions in the project cost

Parameter	X Factor as per the Base Model	X Factor after factoring in disallowances and non-inclusions
Impact of disallowances and non-inclusions of Rs 732.54 crore	(-)873.36%	(-)867.65%

2.41. Metro connectivity to CSI Airport: MIAL submitted that Metro connectivity to CSI Airport, Mumbai has been on the agenda for MMRDA. It was first proposed to be provided with Metro Line – 1. However the same was postponed for Metro Line – 6, which was likely to be implemented by 2021. Later based on discussions with National Facilitation Committee and Ministry of Civil Aviation, MMRDA agreed to pre-pone the airport connectivity to Metro Line – 3.

2.41.1. MIAL, vide their submission dated 04.09.2012, submitted that MIAL would be incurring the cost of Rs 518 crores towards development of 2 metro stations and provision of electro-mechanical system for this connectivity and MIAL have proposed that this amount should be included in RAB for the next control period.

2.41.2. Presenting the background for the same, MIAL stated that,

"MMRDA asked MIAL to bear the costs of stations at CSIA along with provision of electro-mechanical facilities to the extent of 20% of the estimated project cost of Rs 20,000 crores. MIAL initially did not agree for bearing any cost, however, MMRDA was not agreeable to provide connectivity unless there was contribution from MIAL.

After series of discussions, MIAL agreed to bear the cost of three metro stations, one at Santacruz terminal forecourt, one at Sahar terminal forecourt and one in area where proposed Real Estate Development shall take place. Estimated amount to be spent by MIAL is Rs.200 crores per station and total Rs 177 crores towards electro-mechanical system.

Hence cost of two stations in forecourt of terminals at Santacruz and Sahar is estimated to be Rs. 400 crores along with proportionate cost of electro-mechanical system estimated to be Rs

118 crores, total cost for two stations would be Rs. 518 crores and estimated cost will form cost of the project.

The project is being implemented by MMRDA and construction of stations is to be undertaken by MIAL as per norms to be prescribed by MMRDA MIAL has to contribute Rs. 118 crores towards electro-mechanical system, as mentioned above, for these two stations to such contractor as may be finalised by MMRDA. Hence, Rs 518 crores will be part of the MIAL project cost i.e. excluding cost of station and proportionate cost of electro-mechanical system pertaining to the station for proposed real estate development site.

MIAL has brought this issue in knowledge of MoCA, which is a participant in NFC meetings also.

Work on project is likely to start within a year and it is anticipated that cost by MIAL will be incurred in next control period starting from F.Y. 2014-15. We wish to bring to notice of the Authority that, this amount needs to be included in Regulatory Assets Base (RAB) for the purpose of determination of tariff."

2.41.3. The Authority has noted the above submission from MIAL. From the correspondence from MMRC to MIAL, the Authority has noted that, *"MIAL will be permitted to retain the commercial rights at the 3 stations (after providing areas required for metro operation and maintenance) for such period of time to recover Rs 777 crores or till the end of the concession period (not exceeding)."*

2.41.4. The above cost is not to be included in the project cost for the current control period. With respect to likely investment in the next Control Period, the Authority is of the view that the inclusion of this asset in future should be subject to review of correspondences from Government of Maharashtra, MMRDA and Ministry of Civil Aviation to this effect and other relevant associated aspects.

Tentative Decision No2. Regarding inclusion of cost for construction for metro station and equipment

2.a. **The Authority tentatively decided to note the submission of MIAL that it may be required to bear certain costs with respect to metro connectivity to CSI Airport. The Authority also notes that the inclusion of this expenditure and its impact, if any, on tariffs would need to be addressed in the next control period. However the Authority is of the view that inclusion of this asset in future should be subject to review of correspondences from Government of Maharashtra, MMRDA and Ministry of Civil Aviation to this effect and other relevant associated aspects.**

3. Means of Finance including determination of DF

3.1. As discussed in the Tentative Decision No1, the project cost presently being considered by the Authority for the purpose of tariff determination and determination of DF in the current control period is Rs 11,647.46 crores.

3.2. In view of MIAL's submissions on the issue of determination of DF to tide over the shortfall in Means of Finance for the project, the Authority has considered various submissions & related aspects in this regard.

3.3. MIAL submitted the means of finance approved by Board of Directors of MIAL as follows:

	Rs Crs
a. Approved Project Cost	*12380*
b. Means of Finance	
i. Equity Share Capital	*1200*
ii. Debt	*4231*
iii. Real Estate Deposit	*1000*
iv. Development fee (Already Collected + Sanctioned)	*1517*
Total b (i + ii + iii + iv)	*7948*
Gap to be met out of internal accruals, additional DF and any other probable means of finance (a + b)	*4432*

3.4. MIAL, vide their submission dated 07.09.2012, submitted that they have continued to make serious efforts to bring additional means of finance by way of equity and debt. MIAL submitted as under,

> *"This is with reference to MYTP for the period FY 09-10 to FY 13-14 filed by MIAL along with application for Development Fee (DF). Kindly note that MIAL continues to make serious efforts to bring additional means of finance by way of equity and debt.*
>
> *Recently we had a meeting with Deputy Managing Director of IDBI Bank, our lead lenders. A great concern was shown by IDBI due to gap in means of finance. He also enquired about determination of MYTP and sanction of DF. IDBI had reiterated its inability to sanction any further loan unless there is a clarity on finalization of MYTP and adequate DSCR.*
>
> *This matter of gap in means of finance was discussed in recent Board Meeting of MIAL held on 26th July, 2012, where Board was apprised of the*

discussion held with IDBI bank and concern was shown by all the Directors because of gap in means of finance. All the promoters including AAI reiterated the inability to bring in additional Equity……..

Looking into urgency of requirements of funds for implementation of the project, we request the Authority to kindly finalise our application for DF at the earliest."

Authority's views on the means of finance

3.5. The Authority examined each component of the means of finance, as proposed by MIAL and proceeded to consider their respective contributions with respect to the project cost of Rs 11,647.46 crores being considered by the Authority for the current control period.

Quantum of Debt

3.6. The Authority noted that MIAL proposed debt of Rs 4,231 crores as part of means of finance. MIAL, vide their submission dated 31.07.2012, submitted that,

"Total of Term loan sanctioned to MIAL is Rs. 4231 crs. Out of these MIAL has already withdrawn Rs. 3747.6 crs till 31.03.2012. Therefore balance of Rs. 483.4 crs is envisaged to be withdrawn in FY 13 for Project requirements…."

3.7. MIAL, vide their submission dated 07.09.2012, have submitted that their lead bankers IDBI have expressed inability to sanction any further loan until a clarity on finalisation of MYTP is achieved as discussed in para 3.4.

3.8. Further MIAL submitted the extract of its board meeting dated 26.07.2012, where IDBI's response has been noted. The extract is reproduced below,

"……………….

CEO and CFO informed to the Board that a meeting was held with Deputy Managing Director and other senior officials of IDBI Bank on 23rd July 12 to explore possibility of additional debt. IDBI Bank categorically indicated that there was no possibility of any additional debt unless there is clarity on finalization of MYTP by the regulator, as then only, a clear picture will emerge whether there is possibility of additional debt………."

3.9. In view of the above, the Authority has presently considered debt of Rs 4,231 crores as part of means of finance.

Quantum of Equity

3.10. The Authority noted the amount of equity share capital proposed by MIAL at Rs 1,200 crores. The Authority has earlier discussed in para 2.33.9 that the Upfront Fee paid to Airports Authority of India was to be paid by MIAL before or on the date of taking over the project from amounts that would have been available with them and thus the equity contribution of the promoters may be taken to have been reduced by Rs. 153.85 crores.

3.11. The Authority has further noted from MIAL's submission dated 07.09.2012 that shareholders of MIAL have expressed their inability for any further infusion of equity share capital as discussed in para 3.4.

3.12. Further MIAL submitted the extract of its board meeting dated 26.07.2012, where response from the shareholders has been noted. The extract is reproduced below,

> *"………………*
>
> *After discussions, representatives of ACSA Global and Bid Services reiterated their inability to bring in any additional equity. Nominee Director of Airports Authority of India (AAI) also expressly indicated inability of AAI to bring in additional equity because of commitments of AAI for implementing various on-going and planned projects. GVK Group also reiterated its inability to bring in additional equity.*
>
> *………."*

3.13. In view of the above, the Authority has considered Rs 1,046.15 crores as equity capital as part of the means of finance.

Quantum of Refundable Security Deposits

3.14. The Authority noted from MIAL submissions that MIAL initially planned to raise Rs 2,219 crores as deposits from the Real Estate. However it was subsequently revised to Rs 1,000 crores. MIAL, vide their submission dated 26.06.2012, further submitted that there has not been any realisation of Real Estate security deposits in FY 12. Accordingly MIAL submitted revised schedule of real estate security deposits, which envisages realisation of Rs 220.75 crs, Rs 435.09 crs and Rs 344.16 crs in FY 13, FY14 and FY15 respectively keeping the total amount same at Rs 1,000 crores. MIAL's submissions in this respect are provided in para 13.

3.15. In view of the above, the Authority noted that Rs 1,000 crores, to be raised from deposits from the Real Estate, can presently be considered as part of the means of finance.

Quantum of Internal Resource Generation and DF

3.16. The Authority is of the view that DF is a means of last resort and hence before considering the issue of levy of DF, the Authority proposed to consider the issue of internal accruals of MIAL. The Authority noted from MIAL's submission dated 23.11.2011 that MIAL considered internal accruals of Rs 2,473 crores towards means of finance and that this amount of internal accruals was based on the assumption that the Authority would approve the tariff hike proposed by MIAL. The Authority further noted from MIAL's submission that if the tariff hike was approved at a lower level, the amount of internal accruals will go down and MIAL proposed to accordingly increase the amount of DF.

3.17. The Authority, at the outset, notes that the term "internal accrual" is not as such defined in the academic literature and Accounting Standards issued by The Institute of Chartered Accountants of India. The Authority proposes to use the term "internal resource generation", in the present context to comprise (a) Depreciation, (b) Deferred Liabilities (c) Profit after Tax – essentially monies that could be considered to be available to MIAL from its regular course of business operations.

3.18. The Authority noted the observation of the Financial Auditor that the internal accrual considered by MIAL were the total retained earnings, i.e., Profit after tax, as on August 2014 and no adjustment has been made for any non-cash expenditure considered in the same. Non-cash expenditure includes items such as depreciation, deferred tax expense and any other provision for long term liability.

3.19. The Financial Auditor opined that the cash fund available after payment of all operational expenses should be utilised for the purposes of capital funding of the project and not just the profit as per profit and loss account. Thus, the retained earnings should be adjusted to include the amount of non-cash expenses, i.e., depreciation and deferred tax expense to determine the total cash fund generated by the company.

3.20. The Financial Auditor submitted that adjusting the major non cash expenditure of Depreciation and Deferred Tax, the internal resource generation can be enhanced by Rs

1,557 crores from Rs 2,464 crores (as proposed by MIAL in the MYTP submitted to the Authority) to Rs 4,021 crores. As per calculations considered by the Financial Auditor, such consideration of means of finance would not impact the ability of MIAL in terms of repayment of loan, DSCR ratio and payment of deferred tax liability. Therefore, the Financial Auditor proposed that Rs 4,021 crores should be considered towards funding the project cost.

3.21. The Authority has noted that internal resource generation as suggested by the Financial Auditor for consideration towards means of finance has considered an amount of Rs 2,464 crores projected as retained earnings by MIAL on the basis that the tariff hike proposed by MIAL will be approved by the Authority.

3.22. For the purpose of clarity, it is stated that realisation of retained earnings as projected by MIAL and internal resource generation as proposed by the Financial Auditor are dependent upon the acceptance of the hike proposed by MIAL in its MYTP submission. A lower hike in the tariff would reduce the extent of realisation of internal resource generation thus increasing the gap in the means of finance. The tariff increase proposed by MIAL is based, inter alia, on the following elements:

3.22.1. Cost of equity

3.22.2. Hypothetical RAB

3.22.3. Return on Real Estate Deposits (MIAL have proposed that this return should be the same as that on equity)

3.22.4. Treatment of certain sources of revenues as aero or non-aero

3.23. The Authority notes that these elements should finally be determined as part of tariff determination and to the extent that the quantum of these elements is adjusted downwards as part of the tariff determination process, it would also impact the internal resource generation. Hence, the retained earnings as projected by MIAL and the internal resource generation proposed by the Financial Auditor may not materialize.

3.24. As far as depreciation is concerned, the Authority is in agreement with the Financial Auditor's observation that it is a non-cash expenditure and the monies would be available with the company for meeting investment requirements for the project. However the quantum of depreciation, in turn, would depend on the quantum of Capital Expenditure, Hypothetical RAB and Development Fee (DF) (RAB adjustment proposed to be considered to the extent of DF in turn impacting quantum of depreciation) determined by the Authority.

3.25. It can thus be seen that the assessment of gap in the means of finance has an element of circularity on account of inter-linkage between determination of DF and tariff determination (depreciation).

3.26. The Authority is conscious of the fact that the Development Fee (DF) is a means of last resort. In the present case, however, the Authority proposes upfront fixing of DF, to address this inter-linkage and at the same time facilitating determination of internal resource generation.

3.27. The Authority has had the occasion to determine DF in respect of Delhi International Airport Ltd. (DIAL) at Rs. 3415 crores vide the Order no. 28 / 2011-12 dated 14.11.2011. The size of investment in CSI Airport, Mumbai proposed by MIAL is comparable to that undertaken by DIAL. Further the number of passengers and cargo traffic at both the airports are in similar range and the scope, nature and scale of projects being executed at both the airports are also similar. The Authority, therefore, proposed to have reference to the same and proposes to fix the Development Fee amount at similar level at Rs. 3400 crores.

3.28. The Authority also had an occasion to discuss the determination of the Development Fee in the context of OMDA in its Order no. 28 / 2011-12 dated 14.11.2011.

3.29. The Authority has noted the observations of the Comptroller and Auditor General of India (CAG) made in its Report No. 5 of 2012-13 (Performance Audit of the Ministry of Civil Aviation) for the year ended March, 2012. The Auditor (CAG) has referred to Article 13.1 of OMDA which states that,

> *"It is expressly understood that the JVC shall arrange for financing and/or meeting all financing requirements through suitable debt and equity contributions in order to comply with its obligations hereunder including development of the airport pursuant to the Master Plan and the major development plans."*

3.30. CAG has further observed that Ministry has allowed Delhi International Airport Ltd. (DIAL) to levy and use the Development Fee (DF) which according to CAG violated one of the basic provisions of OMDA which was part of the bid documents. CAG has further observed that:

> *"Further, approval of AERA for levy of DF by DIAL in exercise of the powers conferred by Section 13(1)(b) of AERA Act 2008 read with Section 22A of AAI Act 1994 to bridge the funding gap was a post contractual benefit provided to DIAL which was neither envisaged in the Request for Proposal nor included under any provision of OMDA or in the SSA. This has led to undue benefit to DIAL of Rs. 3415.35 crore collected or to be collected from passengers using Indira Gandhi International Airport."*

3.31. The Authority has also noted the comments of the Ministry of Civil Aviation on CAG Report and more particularly, the Ministry's reply/comment on the issue of Development Fee. According to Ministry of Civil Aviation,

> *"The level of Development Fee is under Section 22(A) of AAI Act, 1994 and was in the knowledge of all the bidders prior to the bidding process. Hence, contrary to what the CAG has said, the levy of Development Fee by DIAL was not a post contractual benefit provided to DIAL at the cost of passengers. Further, the levy of the Development Fee has been upheld by the Supreme Court, which has already examined and disposed of all the issues now being raised by CAG in its report."*

3.32. The Authority has carefully considered the CAG Report as well as the response of the Ministry thereto. The Authority has noted that under Section 13(1)(a), the Authority is required to determine the tariff for the aeronautical services taking into consideration, inter alia,

3.32.1. The capital expenditure incurred and timely investment in improvement of airport facilities;

3.32.2. The service provided, its quality and other relevant factors;

3.32.3. The cost of improving efficiency

3.33. Further, the instrument of DF is inbuilt in the AERA Act itself. Also, the Authority has proposed to reduce the aeronautical component of the allowable project cost by the amount of DF to arrive at the Regulatory Asset Base. The tariff determination is being made by the Authority with reference to RAB (with corresponding depreciation and applicable

WACC). Hence, grant of DF has the effect of permanently reducing the RAB and consequently target revenue required (as further discussed in Tentative Decision No12).

3.34. As far as Authority is concerned, it is required to discharge its mandate as required under the Act. During the consultation paper of Delhi Airport, the Ministry of Civil Aviation had not indicated any conflict between determination of Development Fee and OMDA. Hence the Authority notes that on account of determination of Development Fee, MIAL would not be unjustly enriched on this account.

3.35. The Authority notes that the interpretation of the provisions of OMDA as well as AAI Act has been done by the Government according to which sanction of DF under a statute is consistent with OMDA. The Authority notes from the comments of the Government to the observation of CAG, that the Government regards determination of DF consistent with provisions of OMDA. The Authority is, thus, inclined to fix the quantum of Development Fee at Rs. 3400 crores as part of means of finance of the project as a measure of last resort for timely completion of this project. This amount of Rs 3400 crores subsumes the amount of DF granted to MIAL by the Order no. 02/2012-13 dated 18.04.2012 i.e. Rs 1517 crores (=Rs 640.73 crores + Rs 876.27 crore)

3.36. As far as the internal resource generation is concerned, the Authority proposes that the internal resource generation to be considered towards means of finance by MIAL should comprise the following:

3.36.1. Cash balance as on 31st March 2012 as per audited accounts: It is sum total of all factors including depreciation, deferred tax assets/liabilities and general reserves. The cash balance is deemed to have accrued from the operations of the company and deferred tax liability is already subsumed in the available cash balance with the company. The cash balance considered by the Authority towards internal resource generation also includes the Short-term loans and advances as on 31st March 2012 as per audited accounts of MIAL.

3.36.2. Depreciation for financial years 2012-13 and 2013-14: In line with its mandate, the Authority would determine the allowable depreciation on aeronautical RAB. Thus, this amount would be determined by the Authority and therefore ascertainable as part of the tariff determination exercise. The Authority has also noted that the repayment of loans commences from the last quarter of the first year of the next control period (namely, the quarter of January-March, 2015), for an amount of Rs. 200 crores. It, therefore, feels that such depreciation amounts can be reckoned towards means of finance during the current control period.

3.37. The Authority further considered the issue of returns on the Internal Resource Generation considered above. The Authority feels that depreciation being considered as part of Internal Resource Generation is generated on account of assets used in the operations of the airport, which have in turn been financed by debt, equity and other means of finance. The return on the means of finance is finally considered by the Authority as part of WACC (refer discussion on WACC in para 15). Further, the cash balance is also generated from operations of the company, for which means of finance are remunerated in terms of WACC. Thus, the Authority is of the tentative view that return on the Internal Resource Generation can be considered at WACC.

3.38. Internal Resource Generation along with other sources including debt, equity and RSD forms part of the means of finance, which is being considered for funding the allowable project cost. As per SSA, aeronautical component of the allowable project cost (calculated as Regulatory Asset Base) is provided a return in the form of WACC and thus the return being considered on Regulatory Asset Base correspondingly subsumes the return being considered on the Internal Resource Generation in para 3.37.

3.39. Based on the above analysis, the position of means of finance would be as follows:

Table 11: Gap in Means of Finance

Means of Finance	**Rs in crores**
Total Project Cost	11,647.46
Equity	1,046.15
Debt	4,231.00
Development Fee	3,400.00
Real Estate deposits allocated for the project	1,000.00
Internal Resource Generation	
Audited Cash Balance as on 31st March 2012*	645.26
Projected Depreciation on Aeronautical Assets for FY13 and FY14**	506.00
Total Internal Resource Generation	1,151.26
Gap in Means of Finance	819.05

* - Includes the short term loans and advances as on 31st March 2012

** - As explained in the para 16

3.40. The Authority notes that even after considering DF as above and the Internal Resource Generation, there would be a gap in the means of finance with respect to the project cost being considered. The Authority at this stage is inclined not to address this gap with a view that MIAL will arrange for additional means of finance including additional equity, additional debt, higher quantum of refundable security deposits (over and above Rs. 1000 crores already included in the means of finance), etc. Meanwhile, the Authority has written to AAI seeking whether AAI can put in more equity in MIAL.

Rate of DF Levy

3.41. The Authority noted that while calculating the 'CPI-X' factor of 875%, MIAL had assumed the DF rate at Rs. 200/- per departing domestic passenger and had kept the DF rate for international embarking passenger as variable (Rs. 2,126/- per departing international passenger as per the tariff model submitted considering the date of tariff revision w.e.f. 01.05.2012).

3.42. The Authority feels that DF rate of Rs 2,126/- per departing international passenger is high. The Authority also observed that in a separate submission dated 02.05.2011 with respect to determination of DF, MIAL requested for increase of DF to Rs. 200/- per departing domestic passenger and Rs. 1300/- per departing international passenger.

3.43. Vide its Order No 02/2012-13 dated 18.04.2012, the Authority had determined DF of Rs. 100/- per departing domestic passenger and Rs. 600/- per departing international passenger – at the same rate as that previously sanctioned by the Government, pending inter alia further examination of the project cost. At these rates and considering the total DF quantum proposed to be determined (Rs. 3400 crores) and the current traffic forecast, the DF levy would need to continue till about March 2019.

3.44. The Authority finds that MIAL's project is likely to be completed by August, 2014. The passenger traffic growth at CSI Airport has slowed down over the past year. The Authority has considered the forecast for passenger traffic growth as projected by MIAL. The concept of determining development fee as a pre-financing measure would be to ideally make it co-terminus with the project completion, to the extent practicable.

3.45. The Authority, therefore, prima facie finds justification in enhancing the rate of DF at par with those sanctioned for IGI Airport, Delhi. With respect to the consideration mentioned in para 3.42 and 3.44 above, the Authority notes that at such DF rates, the time period for DF levy would reduce from March 2019 to December, 2015 and the carrying cost is also likely to come down.

3.46. In view of the above considerations, on the issue of the rate of DF levy, the Authority is presenting the following options for stakeholder consultation:

3.46.1. To continue the present rate of DF namely Rs 100 per departing domestic passenger and Rs 600 per departing international passenger (excluding any taxes, levies, etc.). Under this option and based on the current traffic forecast, the DF levy would continue till about March 2019, that is to say, slightly less than 5 years after the likely completion of the project in August 2014.

3.46.2. To increase the rate of DF at Rs 200 per departing domestic passenger and Rs 1300 per departing international passenger with effect from 01.01.2013, in which case the amount of DF proposed to be sanctioned is likely to be collected by December 2015.

3.47. It may be noted that the Authority has considered the DF rates of Rs 200 per departing domestic passenger and Rs 1300 departing international passenger for the purpose of determination of X-factor in this consultation paper.

Tentative Decision No3. Regarding determination of DF

3.a. **The Authority tentatively decided to consider amount of Rs 1,151.26 crores towards Internal Resource Generation (Cash Balance of Rs 645.26 crores as on 31st March 2012 as per audited accounts of MIAL & Projected Depreciation on Aeronautical Assets for FY13 and FY14 of Rs 506 crores) and the Authority has tentatively decided to give WACC return on this Internal Resource Generation.**

3.b. **The Authority accordingly tentatively decided to determine the total amount of DF that could be billed by MIAL at Rs. 3,400 crores (including the amount of Rs 1,517 crores sanctioned to MIAL vide Order No. 02/2012-13 dated 18.04.2012).**

Truing Up: 1. **Correction / Truing up for Tentative Decision No3**

1.a. The Authority tentatively decided to true-up the Internal Resource Generation based on the actual audited accounts for projected depreciation being considered, for the present, as part of Internal Resource Generation.

Tentative Decision No4. Regarding determination of DF levy rate

4.a.**The Authority tentatively decided to present the following options for stakeholder consultation:**

i) To continue the present rate of DF namely Rs 100 per departing domestic passenger and Rs 600 per departing international passenger. Under this option and based on the current traffic forecast the DF would continue till about March 2019, that is to say, slightly less than 5 years after the likely completion of the project in August 2014.

ii) To increase the rate of DF to Rs 200 per departing domestic passenger and Rs 1300 per departing international passenger with effect from 01.01.2013, in which case the sanctioned amount of DF is likely to be collected by December 2015 based on the current traffic forecast.

Tentative Decision No5. Regarding period of DF levy

5.a.**The Authority tentatively decided to periodically review the DF billing and make appropriate adjustments to the proposed period of levy, as may be required based on audited reports from MIAL and AAI in this regard.**

Tentative Decision No6. Regarding Project Funding:

6.a. **With the tentative decision on project cost to be considered for the present control period and determination of DF at Rs. 3400 crores, the Authority has noted that it may result in a gap in the means of finance of about Rs 819.05 crores. The Authority has tentatively decided that MIAL should arrange for additional means of finance to fund this gap including additional equity, additional debt, higher quantum of refundable security deposits (over and above Rs. 1000 crores already included in the means of finance) etc.**

6.b. **To the extent that some or all of the items presently not included in the total project cost (totaling Rs 422.34 crores) are executed by MIAL, the gap in the means of finance would increase correspondingly.**

4. Guiding Principles for the Authority

4.1. In terms of the Airports Economic Regulatory Authority of India Act, 2008 (the Act) the main functions of the Authority, in respect of the major airports, are as under:

4.1.1. Determination of the tariff for the aeronautical services;

4.1.2. Determination of the amount of the development fees including User Development Fee;

4.1.3. Determination of the amount of the passenger service fee levied under rule 88 of the Aircraft Rules, 1937 made under Aircraft Act, 1934; and

4.1.4. Monitoring the set performance standards relating to quality, continuity and reliability of service as may be specified by the Central Government or any authority authorised by it in this behalf.

4.2. Section 13 (1) (a) requires the Authority to determine tariff for the aeronautical services taking in to consideration:

4.2.1. the capital expenditure incurred and timely investment in improvement of airport facilities;

4.2.2. the service provided, its quality and other relevant factors;

4.2.3. the cost for improving efficiency;

4.2.4. economic and viable operation of major airports;

4.2.5. revenue received from services other than the aeronautical services;

4.2.6. concession offered by the Central Government in any agreement or memorandum of understanding or otherwise;

4.2.7. any other factor which may be relevant for the purposes of the Act.

4.3. As per Section 13 (1) (a) of the Act, the Authority is to determine the tariff for the aeronautical services taking into consideration, inter-alia, *"(vi) the concession offered by the Central Government in any agreement or memorandum of understanding or otherwise".* In so far as CSI Airport is concerned, the principles of tariff fixation and mechanism thereof have been laid down in clause 3.1 read with Schedule 1 of the SSA.

4.4. The Authority vide its Order No. 13/2010-11 dated 12.01.2011 (Airport Order) and Direction No.5/2010-11 issued on 28.02.2011 (Airport Guidelines) had laid down the overall approach which it would adopt for regulation of aeronautical services provided by the Airport Operators. However, in view of the provisions of the Section 13 (1) (a) (vi) of the Act, the Authority had indicated that it would analyse and assess the implications of the principles and mechanics, relating to tariff fixation, contained in the concession(s) of these airports and determine separately the form and manner in which its directions would be applicable to the Indira Gandhi International Airport, New Delhi and Chhatrapati Shivaji International Airport, Mumbai.

4.5. In this background, MoCA, vide letter No.AV.24011/001/2011-AD dated 30.5.2011, informed the Authority that:

> *"……..OMDA can be considered as the principal document, because the right to Operate, Maintain, Develop, Construct, Upgrade, Modernize, Finance and Manage the airport has been given to the JVCs only under the provisions of clause 2.1 of OMDA. Hence, without OMDA there is no utility of other agreements. Further, in all other agreements cross referencing has been done to the provisions of OMDA for interpretations of the provisions of other transaction documents. Also the definition of the Project Agreements has only been inserted in Clause 1.1 of OMDA and thus this includes all other Transaction Documents."*

4.6. The Authority has given full consideration to the advice of MoCA. The Authority noted that Section 13(1)(a)(vi) of the Act speaks of a concession offered by the Central Government which implies that:

4.6.1. the relevant document should be a "Concession"

4.6.2. "Concession" should have been offered by the Central Government; and

4.6.3. "Concession" should be in the form of any agreement or memorandum of understanding or otherwise.

4.7. Further, the Authority noted that the provisions of the Act do not bind the Authority to the provisions of any agreement nor circumscribe its process of tariff determination on that account. Section 13 (1)(a)(vi) of the Act, however, enjoins upon the Authority only requires it to take in to consideration the concession offered by the Government in any agreement, memorandum of understanding or otherwise. Further, a "concession is a government grant for specific privileges" (Black's Law Dictionary, Ninth Edition). The "airport" being a subject matter of the Central Government (Entry 29, List I, Seventh Schedule of the Constitution), that Government alone has the powers to grant concession in respect of the airports. This position has been clearly recognised and stated in the Greenfield Airport Policy, 2008 of the Central Government.

4.8. As stated hereinabove, the Authority has deliberated on this matter and already taken a view vide Order No. 10/2010-11 dated 10.12.2010 in the matter of approval of X-Ray charges for domestic cargo levied at IGI Airport, New Delhi and the Airport Order No. 13/2010-11 dated 12.01.2011 to the effect that the OMDA is not a concession offered by the Central Government as it is an agreement between MIAL and AAI. Position taken in Order No.10/2010-11 was not challenged by way of any appeal. Appeal filed by MIAL against Order 13/2010-11 has been disposed off by the Hon'ble Tribunal. However, the Authority is cognizant of the fact that OMDA is an important document governing the relationship between contracting parties and functioning of the airport. Furthermore, as indicated in para 4.5 above, MoCA has stressed the primacy of OMDA amongst the Project Agreements as being an important document.

4.9. It is relevant to mention here that sub clause (vii) of Section 13(1)(a) also indicates that the Authority can take into consideration *"any other factor which may be relevant for the purposes of this Act"*. In view of the stated primacy of OMDA amongst the Project Agreements and the fact that SSA is at many places cross referenced to OMDA, the Authority proposes to take into consideration the provisions of OMDA, while determining tariff for CSI Airport, in terms of Section 13(1)(a)(vii)of the Act. However, while doing so, it would have to be ensured that the provisions of OMDA are considered only to the extent these are not inconsistent with the provisions of the Act; or to the extent these could be reconciled with the provisions of the Act.

4.10. Similarly, as regards other agreements, (i.e., other than OMDA & SSA) the provisions therein have also been considered, wherever possible, by the Authority to the extent these are relevant for tariff determination in terms of Section 13 (1) (a) (vii) of the Act.

4.11. Provisions regarding "Tariff and Regulation" have been made in Chapter XII of OMDA. It is stated in clause 12.1.2 that "The JVC shall at all times ensure that the

Aeronautical Charges levied at the Airport shall be as determined as per the provisions of the State Support Agreement." Thus, in respect of tariff, cross referencing has been done in OMDA to the provisions of SSA.

4.12. In clause 3.1 of the SSA following provisions have been made regarding tariff:

" 3.1.1 GOI's intention is to establish an independent airport economic regulatory authority (the "Economic Regulatory Authority"), which will be responsible for certain aspects of regulation (including regulation of Aeronautical Charges) of certain airports in India. GOI agrees to use reasonable efforts to have the Economic Regulatory Authority established and operating within two (2) years from the Effective Date. GOI further confirms that, subject to Applicable Law, it shall make reasonable endeavours to procure that the Economic Regulatory Authority shall regulate and set/ re-set Aeronautical Charges, in accordance with the broad principles set out in Schedule 1 appended hereto. Provided however, the Upfront Fee and the Annual Fee paid/payable by the JVC to AAI under the OMDA shall not be included as part of costs for provision of Aeronautical Services and no pass-through would be available in relation to the same.

3.1.2 The Aeronautical Charges for any year during the Term shall be calculated in accordance with Schedule 6 appended hereto. For abundant caution, it is expressly clarified that the Aeronautical Charges as set forth in Schedule 6 will not be negotiated post bid after the selection of the Successful Bidder and will not be altered by the JVC under any circumstances."

4.13. Schedule 1 of the SSA provides that "………in undertaking its role, AERA will (subject to Applicable Law) observe the following principles:

1. Incentives Based: The JVC will be provided with appropriate incentives to operate in an efficient manner, optimising operating cost, maximising revenue and undertaking investment in an efficient, effective and timely manner and to this end will utilise a price cap methodology as per this Agreement.

2. Commercial: In setting the price cap, AERA will have regard to the need for the JVC to generate sufficient revenue to cover efficient operating costs, obtain the return of capital over its economic life and achieve a reasonable return on investment commensurate with the risk involved.

3. Transparency: The approach to economic regulation will be fully documented and available to all stakeholders, with the Airports and key stakeholders able to make submissions to AERA and with all decisions fully documented and explained.

4. Consistency: Pricing decisions in each regulatory review period will be undertaken according to a consistent approach in terms of underlying principles.

5. Economic Efficiency: Price regulation should only occur in areas where monopoly power is exercised and not where a competitive or contestable market operates and so should apply only to Aeronautical Services. Further in respect to regulation of Aeronautical Services the approach to pricing regulation should encourage economic efficiency and only allow efficient costs to be recovered through pricing, subject to acceptance of imposed constraints such as the arrangements in the first three years for operations support from AAI.

6. Independence: The AERA will operate in an independent and autonomous manner subject to policy directives of the GOI on areas identified by GOI.

7. Service Quality: In undertaking its role AERA will monitor, pre-set performance in respect to service quality performance as defined in the Operations Management Development Agreement (OMDA) and revised from time to time.

8. Master Plan and Major Development Plans: AERA will accept the Master Plan and Major Development Plans as reviewed and commented by the GOI and will not seek to question or change the approach to development if it is consistent with these plans. However, the AERA would have the right to assess the efficiency with which capital expenditure is undertaken.

9. Consultation: The Joint Venture Company will be required to consult and have reasonable regard to the views of relevant major airport users with respect to planned major airport development.

10. Pricing responsibility: Within the overall price cap the JVC will be able to impose charges subject to those charges being consistent with these pricing principles and IATA pricing principles as revised from time to time including the following:

i) Cost reflectivity: Any charges made by the JVC must be allocated across users in a manner that is fully cost reflective and relates to facilities and services that are used by Airport users;

ii) Non-discriminatory: Charges imposed by the JVC are to be non-discriminatory as within the same class of users;

iii) Safety: Charges should not be imposed in a way as to discourage the use of facilities and services necessary for safety;

iv) Usage: In general, aircraft operators, passengers and other users should not be charged for facilities and services they do not use."

4.14. It appears that the principles laid out in the SSA are broadly consistent with the Authority's regulatory philosophy and approach as stated in its Airport Order and Airport Guidelines. However, there are certain important provisions in Schedule 1 of SSA, which are at variance with the approach decided by the Authority in respect of other airports, which can be summarised as under:

4.14.1. <u>Shared Till</u> – 30% of the gross revenue generated by the JVC from revenues share assets shall be used to subsidize Target Revenue. The costs in relation to such revenue shall not be included while calculating aeronautical charges.

4.14.2. <u>Hypothetical RAB</u> – The opening RAB for the first regulatory period would be the sum total of the Book Value of the Aeronautical Assets in the books of the JVC and the hypothetical regulatory base computed using the then prevailing tariff and the revenues, operation and maintenance cost, corporate tax pertaining to Aeronautical Services at the Airport, during the financial year preceding the date of such computation.

4.14.3. No cost pass through – (read with Clause 3.1.1)-the Upfront Fee and the Annual Fee paid/payable by the JVC to AAI under the OMDA shall not be included as part of costs for provision of aeronautical services and no pass through would be available in relation to the same.

4.15. In addition to Schedule 1, some relevant provisions regarding Aeronautical Charges have been made in Schedule 6 of the SSA as well, which are as under:

4.15.1. The first control period to commence from the commencement of the fourth year after the Effective Date

4.15.2. Year on year determination of tariff

4.16. It is observed that the draft of the SSA formed part of the bid documents in respect of CSI Airport. Further, the provisions of the SSA have to be read together and consideration of such provisions in isolation may tantamount to cherry picking. In view of this, it has been a consistent view of the Authority that the provisions of the SSA should be taken on board as far as these are consistent with the provisions of the Act. Further, the provisions of SSA should also be reconciled to the extent possible with the provisions of the Act. It is only where the provisions of the SSA are not consistent with the Act and cannot be reconciled thereto, a deviation may need to be made.

4.17. The Authority noted the provisions of Section 13 (1) (a) (vi) and (vii) of the Act; and the fact that with respect to evolving its regulatory philosophy and approach for economic regulation of Airport Operators to give effect to its mandate under the Act, the Authority had undertaken extensive consultations with stakeholders, carefully perused all submissions, views and opinions expressed by stakeholders and had issued its Airport Order in the matter;

4.18. In view of the above, the Authority has tentatively decided to adopt the following approach towards determination of tariffs for aeronautical services provided by MIAL:

4.18.1. To consider the provisions of the SSA read with the provisions of OMDA and other agreements as far as these are consistent with provisions of the Act; and

4.18.2. Wherever possible, have recourse to principles of tariff determination contained in its Airport Order and Airport Guidelines.

Tentative Decision No7. Regarding guiding principles of the Authority

7.a. **The Authority has tentatively decided to adopt the following approach towards determination of tariffs for aeronautical services provided by MIAL:**

i) To consider the provisions of the SSA read with the provisions of OMDA and other agreements as far as these are consistent with provisions of the Act; and

ii) Wherever possible, have recourse to principles of tariff determination contained in the Airport Order and Airport Guidelines.

5. Regulatory Period

5.1. MIAL have made a tariff filing for the five-year block comprising 2009-10 to 2013-14 as the first regulatory period (comprising past financial years 2009-10, 2010-11 and 2011-12 and future financial years 2012-13 and 2013-14). In the initial proposal dated 11.10.2011, a collection period of the revised tariff has been considered from 1st December 2011 to 31st March 2014. Subsequently the collection period has been revised and indicated as 1st July 2012 to 31st March 2014. Considering the timelines involved, the Authority considers that the collection period w.e.f. 1st January 2013 may be practicable.

5.2. Section 13 (2) of the Act requires that "the Authority shall determine the tariff once in five years and may if so considered appropriate and in public interest, amend, from time to time during the said period of five years, the tariff so determined."

5.3. The SSA authorizes MIAL, under clause 3.1.2 and Schedule 6, to levy Aeronautical Charges for various Aeronautical Services at the rates set forth in Schedule 8, for a period of two years from the Effective Date. Further, Schedule 6 also requires that from the commencement of 4th year after the Effective Date, Aeronautical Charges will be set by Economic Regulatory Authority/GoI in accordance clause 3.1.1 read with Schedule 1 of the SSA.

5.4. It is submitted that, one of the Principles of Tariff Fixation, provided under Schedule 1 of the SSA, pertains to provision of: "*appropriate incentives to operate in an efficient manner, optimising operating cost, maximising revenue and undertaking investment in an efficient, effective and timely manner and to this end will utilise a price cap methodology as per this Agreement (SSA)"*.

5.5. The principle of Consistency refers to "*pricing decisions in each regulatory review period*" and the illustrative example relates to a five-year regulatory period.

5.6. In view of the above, it is apparent that in terms of the provisions of Section 13 (2) of the Act, and consistent with provisions of the SSA, tariffs would need to be determined for a five-year regulatory period.

5.7. Another issue which arises for the consideration of the Authority is the date of commencement of the first regulatory period. In this regard the guidance is available in Schedule 6 of the SSA which envisages that:

"From the commencement of the fourth (4th) year after the Effective Date and for every year thereafter for the remainder of the Term, Economic Regulatory Authority / GoI (as the case may be) will set the Aeronautical Charges in accordance with Clause 3.1.1 read with Schedule 1 appended to this Agreement……."

5.8. Schedule 1 of the SSA also provides that

"If despite all reasonable efforts of the GOI, AERA is not in place by the time required to commence the first regulatory review, the Ministry of Civil Aviation will continue to undertake the role of approving aero tariff, user charges, etc."

5.9. It may be observed that clause 3.1.2 and Schedule 6 of the SSA provide for tariffs to be determined from the commencement of fourth year after the "Effective Date" which has been defined as under, as per clause 1.1 of the OMDA:

"Effective Date" *means the date on which the Conditions Precedent have been satisfied or waived according to the terms hereof.*

5.10. 3rd May 2006 has been taken as the Effective Date for MIAL. This would imply that the first regulatory period should technically commence from 3rd May 2009 and end on 2nd May 2014.

5.11. In terms of requirements of information for tariff determination, information already/ normally maintained by MIAL and other entities for financial years followed in our country i.e. 1st April to 31st March of the subsequent year, the above periodicity would imply that:

5.11.1. The information would need to be segregated for a number of periods:

- 3rd May 2009 – 31st March 2010;
- 1st April 2010 – 2nd May 2010;
- 3rd May 2010 – 31st March 2011;
- 1st April 2011 – 2nd May 2011;
- 3rd May 2011 – 31st March 2012;
- 1st April 2012 – 2nd May 2012;
- 3rd May 2012 – 31st March 2012;
- 1st April 2013 – 2nd May 2013;

– 3rd May 2013 – 31st March 2014

– 1st April 2014 – 2nd May 2014;

at times requiring adoption of certain approximations and assumptions especially on operational data;

5.11.2. Analyses of such information would not necessarily correspond to analyses of other information that may be available on relevant aspects.

5.12. In view of the above, the Authority is of the opinion that it is more practicable to consider the regulatory period from 1st April 2009 to 31st March 2014, i.e., in line with the normal Financial Years(s) reckoned in the country. This approach would imply consideration of an additional period from 1st April 2009 to 2nd May 2009 (a period of 32 days) in the first regulatory period while implying consideration of the period from 1st April 2014 to 2nd May 2014 (a period of 32 days) in the next regulatory period. However, in view of the issues in data segregation and analyses mentioned above, the consideration of the regulatory period from 1st April 2009 to 31st March 2014 is more practicable. MIAL have also made its filings accordingly.

5.13. In view of the position indicated above, determination of tariffs for the first regulatory period for MIAL will be effected during the 4th year of the regulatory period. Also, determination and notification of revised tariffs for aeronautical services, after stakeholder consultation, would only be possible by 1st January 2013 As stated hereinabove the new tariff are likely to be operationalised only w.e.f. 1st January 2013.

Tentative Decision No8. Regarding Regulatory Period

8.a. **In view of the above, the Authority tentatively decided that the first regulatory period in respect of tariff determination for CSI Airport, Mumbai may be reckoned from 1st April 2009 to 31st March 2014.**

6. Regulatory Building Blocks

6.1. MIAL have determined the Target Revenue (TR) by aggregating terms in the following formula:

$$\boldsymbol{TR_i = RB_i \times WACC_i + OM_i + D_i + T_i - S_i}$$

Where;

- TR = target revenue
- RB = regulatory base pertaining to Aeronautical Assets and any investments made for the performance of Reserved Activities etc. which are owned by MIAL. The Assets other than Aeronautical Assets will be excluded from the scope of RAB.

$$RB_i = RB_{i-1} - D_i + I_i$$

- Where: for the first regulatory period would be the sum total of
  - the Book Value of the Aeronautical Assets in the books of MIAL and
  - the Hypothetical Regulatory Base computed using the then prevailing tariff and the revenues, operation and maintenance cost, corporate tax pertaining to Aeronautical Services at the Airport, during the financial year preceding the date of such computation
- WACC = nominal post-tax weighted average cost of capital, calculated using the marginal rate of corporate tax
- OM = efficient operation and maintenance cost pertaining to Aeronautical Services
- D = Annual Depreciation charged on aeronautical assets based on depreciation reference rates prescribed as per the Companies Act, 1956
- T = Corporate taxes on earnings pertaining to Aeronautical Services
- S = Subsidy to the extent of 30% of the Gross Revenue generated from the Revenue Share Assets, which are defined to include:
  - Non-Aeronautical Assets; and
  - Assets required for provision of aeronautical related services arising at the Airport and not considered in revenues from Non-Aeronautical Assets (e.g. Public admission fee etc.)
- i = Number of year in the regulatory control period

6.2. MIAL's submissions and the observations on the individual elements / regulatory building blocks in the above formula are presented in the following sections / paragraphs.

6.3. The subsequent sections start with the discussion on Regulatory Asset Base (RAB), followed by discussion on return on RAB, depreciation, operating expenses, taxation and revenue from revenue share assets. Issues around treatment of specific services such as cargo, aircraft fuelling and others in aeronautical and non-aeronautical services, forecast of traffic & inflation, quality of service to be maintained by MIAL and rate card proposed by MIAL have been discussed subsequently. This Consultation Paper ends with the summary of tentative views of the Authority on various issues addressed in the earlier sections.

6.4. The discussion on Regulatory Asset Base (RAB) has been segregated into key issues pertaining to determination of RAB, which include allocation of project cost into aeronautical and non-aeronautical assets, determination of Hypothetical Regulatory Base as prescribed under SSA and consideration of components such as operational capital expenditure and retirement compensation in RAB.

6.5. The discussion on return on RAB has been segregated into the key components of means of finance including debt, refundable security deposits and equity. These discussions have been summed up in the section on weighted average cost of capital (WACC).

7. Asset Allocation (Aeronautical / Non-aeronautical)

7.1. MIAL, vide their submission dated 11.10.2011, submitted that as per definition of the RB given in the Schedule 1 of SSA, the RB includes only the Aeronautical Assets (including those for reserved activities), which necessitates segregation of Assets into Aeronautical and Non-aeronautical assets. MIAL submitted that KPMG has conducted a study for segregation of assets for the FY 2009-10 and FY 2010-11 using asset-by-asset allocation approach and MIAL have adopted the same basis for allocation of asset into aeronautical and non-aeronautical assets for the remaining years in the current control period.

7.2. MIAL, vide their submission dated 11.10.2011, stated as under,

> *"In the asset-by-asset segregation approach, the asset base is allocated between Aeronautical and Non-Aeronautical Services based on the usage of the asset by the respective services. In case the assets are jointly required by both services (common assets) they are allocated in proportion to the extent to which those services generate or cause the requirement for the asset. MIAL for the purpose of this filing, has adopted the asset by asset approach where in assets are identified as Aeronautical and Non-Aeronautical based on the provisions of OMDA and in case of common assets they have been allocated based on the approach described below. While the AERA Act defines the Aeronautical Services to include Cargo Handling, the same is explicitly included in Non Aeronautical Service under schedule 6 of OMDA. Therefore, for the purpose of calculating Aeronautical Charges as per SSA, the same has been considered as a Non Aeronautical Service. The assets in the books of MIAL have been created through capital expenditure incurred from the FY 2006 -07. Most of the assets are clearly identifiable as Aeronautical or Non-Aeronautical. For example, assets on the airside like the runways; parking bays etc. are Aeronautical Assets and the cargo terminal, etc. are Non-Aeronautical Assets. Similarly, on the land side assets like car parking, etc. are clearly identifiable as Non-Aeronautical Assets. The segregation of assets for FY 2009-10 and FY 2010-11 is given below."*

Table 12: Segregation of assets for FY 2009-10 and FY 2010-11

In Rs. Crore	FY 10	FY 11
Aeronautical Assets	1062	1624
Non-Aeronautical Assets	130	141
Common Assets	281	308
Total *	1473	2073

** Excluding Upfront Fee and Retirement Compensation*

7.3. MIAL further submitted in the same submission that,

"MIAL has five existing Terminals 1A, 1B, 1C, 2B and 2C and one New Common User Terminal is being constructed. In all these terminals, each of the assets has been identified as Aeronautical, Non-Aeronautical or Common Asset. Further, the Common Assets have been segregated into Aeronautical and Non-Aeronautical in proportion to the volume occupied by respective assets for rendering corresponding services. Proportion of volume has been considered as basis of segregation of common assets as the common cost like civil structure, electrical machines & fittings etc. are directly related to the volume required to be constructed. Accordingly common assets in the existing terminal buildings for FY 2009-10 and FY 2010-11 have been allocated based upon the percentage volume occupied by Aeronautical and Non-Aeronautical Services."

7.4. The Aeronautical and Non-Aeronautical Assets after allocation of common assets based on the volume ratio is as follows:

Table 13: MIAL's allocation of aeronautical and non-aeronautical assets after allocation of common assets based on the volume ratio

Rs. In crore	FY 10	FY 11
Aeronautical Assets	1321	1909
Non Aeronautical Assets	152	164
Total	1473	2073

7.5. MIAL submitted that based on the approach described in para 7.1, 7.2 and 7.3 above, Aeronautical and Non Aeronautical assets have been segregated on volume ratio for the current control period. The overall ratio between Aeronautical Asset and total Asset (i.e. Aeronautical and Non-Aeronautical Asset) has been computed for each year of the control period, which is summarised below:

Table 14: MIAL's allocation of overall aeronautical assets as a % of total assets based on the volume ratio

In %	FY 10	FY 11	FY 12	FY 13	FY 14
Aeronautical Assets as % of Total Assets	91.25%	92.95%	92.05%	93.98%	95.53%

7.6. MIAL, vide their submission dated 23.11.2011, have mentioned that the Authority has suggested MIAL to relook into the asset segregation principles adopted by it and in particular change the methodology for allocating common assets in the terminal buildings from volume basis to area basis.

7.7. MIAL further stated as under,

> *"…..in the MYTP dated 11.10.2011, it has followed an asset by asset segregation methodology wherein assets were identified as purely Aeronautical, purely Non aeronautical and Common Assets. The Common Assets are mainly located in the Terminal Building which are further allocated between Aeronautical and Non-Aeronautical Assets based on the ratio of volume occupied by the Aeronautical and Non-Aeronautical assets.*
>
> *In the entire approach the critical assumptions are:*
>
> - *Assets defined as Aeronautical Assets in OMDA and used for provision of Aeronautical services (as listed in schedule 5 of OMDA) are treated as aeronautical. For example; lifts, escalators and passenger conveyors are specifically included under schedule 5 of OMDA and hence included under (Schedule 6 of OMDA) are treated as Non-Aeronautical.*
> - *Assets that cannot be identified as purely Aeronautical or Non-Aeronautical are classified as common Assets.*
>
> *As the approach adopted for identification and segregation of assets into Aeronautical, Non Aeronautical and common Assets is in line with provisions of OMDA, MIAL has not changed its approach for the same".*

7.8. The segregation of assets as on 31.03.2010 and 31.03.2011 as submitted by MIAL is reproduced below:

Table 15: MIAL's segregation of assets as on 31.03.2010 and 31.03.2011

Rs. In crore	As on 31.03.2010	As on 31.03.2011
Aeronautical Assets	1062	1624
Non Aeronautical Assets	130	141
Common Asset	281	308
Total*	1473	2073

*Excluding upfront fee and retirement compensation

7.9. MIAL further submitted that,

"For the purpose of allocation of Common Assets, although MIAL believes that ratio of volume represents more appropriate basis for allocation, it has modified the basis of allocation from volume to area used by Aeronautical and Non Aeronautical Assets in line with the suggestion given by Hon'ble Authority. While doing an allocation of common assets, MIAL has considered the area used by all Non Aeronautical services including seating areas for provision of Non Aeronautical services. In addition it has allocated the common seating areas in three proportions of Aeronautical: Non Aeronautical (i) Common (50:50), (ii) predominantly Aeronautical (90:10) and (iii) Predominantly Non – Aeronautical (10:90)".

7.10. The revised allocation of common assets as on 31.03.2010 and as on 31.03.2011 in the Terminal based on area and approach as described above is presented below:

Table 16: Common Fixed Assets (Terminal) Segregation into Aeronautical and Non Aeronautical as submitted by MIAL

Fixed Asset	Total Value (In Rs. Cr.)	Value of Common Assets (In Rs. Cr.	Allocation of Common Assets			
			Area under Aero (%)	Area under Non-Aero (%)	Aero Assets (in Rs Cr.)	Non-Aero Assets (in Rs Cr.)
FY 2009-10						
Terminal – 1	9.22	2.40	81.81	18.19	1.96	0.44
Terminal -1 & 2	3.78	2.82	79.68	20.32	2.25	0.57
Terminal- 1A	44.14	30.76	81.75	18.25	25.15	5.62
Terminal 1B	76.69	25.67	76.27	23.73	19.57	6.09
Terminal 1C	138.73	138.73	90.02	9.98	124.89	13.84
Terminal -2	14.69	5.73	77.56	22.44	4.44	1.29
Terminal 2B	9.98	7.37	81.42	18.58	6.00	1.37
Terminal -2B2C	39.02	32.58	77.56	22.44	25.27	7.31
Terminal -2C	126.12	35.19	75.10	24.90	26.43	8.76
Total	462.36	281.24	83.90	16.10	235.96	45.29
FY 2010-11						
Project Office	31.71	25.28	83.74	16.26	21.17	4.11
Terminal – 1	9.71	2.87	81.81	18.19	2.35	0.52
Terminal -1 & 2	3.45	2.1	79.68	20.32	1.67	0.43
Terminal- 1A	44.02	30.94	81.75	18.25	25.29	5.65
Terminal 1B	77.36	26.11	76.27	23.73	19.91	6.20
Terminal 1C	140.04	139.89	90.02	9.98	125.93	13.96
Terminal -2	14.21	5.66	77.56	22.44	4.39	1.27
Terminal 2B	9.98	7.37	81.42	18.58	6.00	1.37
Terminal -2B2C	39.06	32.98	77.56	22.44	25.58	7.40
Terminal -2C	129.09	35.18	75.10	24.90	26.42	8.76
Total	**498.63**	**308.38**	**83.89**	**16.10**	**258.71**	**49.66**

7.11. The Aeronautical and Non-aeronautical Assets after allocation of the Common Assets based on the area is as follows:

Table 17: Aeronautical and Non-aeronautical Assets on area basis after allocation of the Common Assets as submitted by MIAL

In Rs. Cr.	FY 10	FY11
Aeronautical Assets	1298	1883
Non-Aeronautical Assets	175	191
Total*	1473	2073

*Excluding Upfront Fee and Retirement Compensation

7.12. Based on the above approach, MIAL segregated the Aeronautical and Non-Aeronautical Assets on area basis for the current control period. The overall ratio between Aeronautical Assets and Total Assets (i.e. Aeronautical and Non-Aeronautical Assets) as computed by MIAL on area basis for each year of the control period, is summarised below:

Table 18: Overall Aeronautical Assets on area basis as a % of Total Assets

In%	FY 10	FY 11	FY 12	FY 13	FY 14
Aeronautical Assets as %age of Total Assets	89.92	91.87	91.18	92.78	93.11
Total Aeronautical Assets*	1559	2144	2642	4000	10324

*Excluding upfront fee and retirement compensation

Tentative Decision No9. Regarding Asset Allocation between aeronautical and non-aeronautical assets

9.a. **The Authority tentatively decided to, for the present and in absence of any other relevant basis for allocation, accept the revised proposal made by MIAL on allocation of assets into aeronautical and non-aeronautical assets on the basis of area. The allocation proposed by MIAL is as per Table 19.**

Table 19: Overall Aeronautical Assets on area basis as a % of Total Assets

Allocation of Assets	FY 10	FY 11	FY 12	FY 13	FY 14
Aeronautical Assets (Segregation Based on Area) (%)	89.92%	91.87%	91.18%	92.78%	93.11%

9.b. **The Authority also tentatively decided that it will commission an independent study in this behalf and would take corrective action, as may be necessary, at the commencement of the next control period commencing with effect from 01.04.2014. The Authority further proposes that upon analysis / examination pursuant to such a study, the Authority may conclude that the allocation of assets considered needs to be changed. In such a case the Authority would consider truing up the allocation mix at the commencement of the next control period.**

8. Operational Capital Expenditure

8.1.1. MIAL, in their initial submission dated 11.10.2011, considered Operational Capital Expenditure of Rs. 118 Crores up to FY 2010-11 as part of RAB for tariff determination. Further MIAL projected the Operational Capital Expenditure for the year FY 2011-12 as Rs. 106 Crores. The Operational Capital Expenditure in the remaining control period i.e. FY 2012-13 and 2013-14, has been considered as 1.5% of the opening Gross Fixed Assets (GFA) increased further by the specific planned expenditure, if any, for any particular year.

8.1.2. MIAL submitted the details of Operational Capital Expenditure in three separate heads: Airside Works, T1C car park and remaining budgeted operational capital expenditure. MIAL submitted the following table in their initial submission for the operational capital expenditure:

Table 20: Summary of Operational Capital Expenditure as per initial submission

In Rs crore	FY 12	FY 13	FY 14	FY 15	Total
Operational Capital expenditure	106	116	85	173	480

8.1.3. MIAL, vide their letter dated 26.06.2012, submitted that the Operational capital expenditure for FY 12 in the initial submission dated 11.10.2011 was Rs.106 crores against which actual expenditure, that MIAL have incurred, is Rs.44.02 crores. Balance amount of Rs.61.98 crores is carried forward and projected to be incurred in FY13. Similarly amount capitalised and added to fixed assets in FY12 is Rs.26.75 crores and balance of Rs.17.27 crores forms part of Capital Work in progress which is expected to be capitalised in FY13.

Observations on Operational Capital Expenditure

8.2. The Authority sought from MIAL the basis for the revision of Operational Capital Expenditure projected by MIAL in their submission dated 26.06.2012 and requested MIAL to furnish the breakup of operational capital expenditure for the years 2012-13, 2013-14. In response, MIAL, vide their submission dated 31.07.2012, submitted a detailed head-wise assessment for the years 2012-13, 2013-14 and 2014-15, which is reproduced hereunder:

Table 21: Tentative details of Projected Operational Capital Expenditure, as submitted by MIAL

Sr. No.	Particulars (Figures in Rs lakhs)	FY 12-13	FY13-14	FY14-15
1.	Construction of concrete road for operational area- 13 Km	1000	1500	5000
2.	Reconstruction of Taxiway N8			3500

Sr. No.	Particulars (Figures in Rs lakhs)	FY 12-13	FY13-14	FY14-15
3.	Reconstruction of Apron C		1500	2825
4.	Construction of compound wall – 15 kms	850	1170	2000
5.	Construction of Tunnel for Andheri Kurla Road for joining the approach area to the airside			2000
6.	Construction of Tunnel for Andheri Kurla pipe line Road for joining the approach area to the airside			1000
7.	Reconstruction of Taxiway P		1500	
8.	Provision of VGDS	100		
9.	Hi mast for apron lighting as per DGCA	100		
10.	Provision of 5 MVA Sub-Stn. At Gaondevi area	400	100	
11.	Kal Kit for AGL	140		
12.	Escalator & Lifts in the terminal	100		
13.	Development of road and drains (Gaondevi area)	200	200	
14.	Bus lounge at Terminal 1B (Inter terminal coach)	135		
15.	Aerobridge renovation & refurbishment	120		
16.	Construction of Civil store for Airside maint (Gaondevi area)	300		
17.	Procurement of Articulate Boom / Scissor Lift – 17 Nos.	200	200	
18.	Development of Taxi Parking area at Terminal-IA	250		
19.	PA system in Terminal 1A	120		
20.	Installation of PAPI		30	
21.	Relocation of Gate No.8	200		
22.	DG sets for CCR	120		
23.	Beautification and landscaping in front of gate No.8	100		
24.	Construction of UG tank and pumping system at Ter-IA		600	
25.	Replacement of AC plant at T-IA		230	
26.	Reconstruction of Power house	100		
27.	Construction of Sahar Village drain and widening of road			500
28.	Preventive maintenance & BMS software packages	200		500
	TOTAL	4735	7035	17325

8.3. In addition to the table above, MIAL also stated that,

" a) Airside Works (Taxiway N1):

MIAL had envisaged additional Operational capital expenditure for Air side works (Taxiway N1) as under:

In Rs crs	*FY 12*	*FY 13*	*FY 14*
Airside works (earlier)	*20*	*60*	*15*
Airside works (Revised)	*8.45**	*60*	*15*

**Expenditure incurred in FY 12 is part of the Operational Capex of Rs. 44.02 Crs. Shortfall in capex of Rs. 11.55 Crs. for FY 12 ¡s carried forward to FY 13 as part of budgeted operational capex.*

The total capital expenditure estimated for Airside works is in respect to the Taxiway N1 is Rs. 95 Crs. Taxiway N1 is the busiest taxiway on the entire airport. It is an extension of Taxiway N (old name Taxiway Delta) towards east of Runway 14/32. In line with realignment of Taxiway D, Taxiway N1 too is being realigned and shifted southwards in order to maintain a uniform separation of 190m from Runway 09/27. Moreover the condition of the Taxiway is not good. This further necessitates reconstruction of this Taxiway. Accordingly work on reconstruction and realignment of Taxiway N1 is being taken up.

The portion of Taxiway which falls east of its intersection with taxiway N3 has already been completed. Secondly its intersection with Taxiway N3 has also been completed. Now works on the remaining portion i.e. from its intersection with Runway 14/32 N1 / N3 junction will be taken up. The scope consists of construction of full strength rigid pavement, flexible pavement, shoulder pavement, AGL and grading works. The works shall be taken up in phases so as to complete the entire scope by May 2013. It may be noted that this work is not part of project cost.

b) T1C Car Park:

MIAL had envisaged Operational capital expenditure for T1C Car Park as under:

In Rs crs	*FY 12*	*FY 13*
T1C Car Park (earlier)	*7*	*8*
T1C Car Park (Revised)	*-**	*8*

**There was no expenditure incurred for T1C car park in FY 12. Shortfall in capex of Rs. 7 Crs. For FY 12 is carried forward to FY 13 as part of budgeted operational capex.*

It is Domestic Terminal underground car park, located near T1C. The capacity of the car park is 80 and shall cater to needs for T1C passengers and Hotel guest."

8.4. Based on the submission above, the Operational Capital Expenditure for the years 2012-13, 2013-14 and 2014-15 respectively are Rs 177.35 crores, Rs 85.3 crores and Rs

173.23 crores, as against the earlier figures of Rs. 115.37 crores, Rs. 85.3 crores and Rs 173.23 crores respectively.

Table 22: Revised Operational Capital Expenditure, as submitted by MIAL

In Rs crs	FY 12	FY 13	FY 14	FY 15	Total
Operational Capital expenditure	44	177	85	173	480

8.5. Section 13 (1) (a) (i) of the Act lays down that the Authority shall determine the tariff for aeronautical services taking in to consideration the capital expenditure incurred and timely investment in improvement in airport facilities.

8.6. While finalising the Order in the matter of Economic Regulation of Airports (Order No.13/2010-11 dated 12.01.2011) the Authority noted the concerns of stakeholders and Airports on the consultation protocol proposed by the Authority. The Authority reiterated its objective to propose a consultation protocol to be followed by Airport Operators in respect of the decisions to be made on capital investment. The Authority stated that it is a well-accepted principle and best practice that future development at the airport, primarily in terms of capital investment, needs to be informed by views expressed by users of airport. The consultation protocol provides a framework between Airport Operators and users which is intended to be an on-going, continuous process during the project life cycle that should inform decisions during key phases of investment planning.

8.7. As per the principles of Tariff fixation, Schedule 1 of the SSA, the 9th principle is on the Consultation to be followed by the JVC i.e., MIAL. The principle states that *"The Joint Venture Company will be required to consult and have reasonable regard to the views of relevant major airport users with respect to planned major airport development".*

8.8. In normal course, it would need to be assumed that MIAL have followed the principles enumerated in the SSA and have ensured consultation with the stakeholder and have reasonable regard to the views of relevant major airport users with respect to planned major airport development. However, presently, no evidence whatsoever has been placed on record to support this assumption.

8.9. In view of the above, it appears that on the basis of justification submitted by MIAL it is possible to consider the Operational Capital Expenditure for the years 2012-13 and 2013-14 are Rs 177.35 crores and Rs 85.3 crores respectively subject to a review of the actual expenditure.

Tentative Decision No10. Regarding operational capital expenditure

10.a. **In respect of the operational capital expenditure, the Authority tentatively decided to consider the operational capital expenditure as proposed by MIAL for the current control period towards project cost. The Authority noted that this project cost would also need to be separated between aeronautical and non-aeronautical activities to arrive at aeronautical asset base and thereafter aeronautical RAB. Further the Authority also tentatively decided to reckon these figures for the determination of X factor.**

10.b. **The Authority tentatively decided that the future operational capital expenditure (FY 13 and FY 14) incurred by MIAL during the balance control period based on the audited figures and evidence of stakeholder consultation as contemplated in the SSA, as well as the review thereof that the Authority may undertake in this behalf, be reckoned for the determination of X factor. This review will also include the amount of Rs 177.3 crores for FY 13 and Rs 85.3 crores for FY 14, which the Authority has, for the present, reckoned for the determination of X factor.**

9. Regulatory Asset Base (RAB)

9.1. MIAL have computed the RAB, representing aeronautical assets, for the purpose of their tariff application, as under:

$$RAB\ at\ the\ start\ of\ a\ period\ (Opening\ RAB) + Projected\ capital\ investment - projected\ depreciation = RAB\ at\ the\ end\ of\ a\ period\ (Closing\ RAB)$$

9.2. MIAL calculated RAB for each year as the average of the opening and the closing RAB. Changes in RAB values for various years over the control period have been computed by applying the aforesaid methodology. Further, the return was proposed to be calculated on average RAB. The computation of Regulatory Asset Base for the control period, as submitted by MIAL vide their submission dated 11.10.2011, is as under:

Table 23: Computation of Regulatory Base for the control period as submitted by MIAL

(Amount in Rs. Crores)	2009-10	2010-11	2011-12	2012-13	2013-14
Opening Regulatory Asset Base	861	1,454	1,889	2,365	3,678
Less: Accumulated Depreciation	68	102	127	176	305
Add: Capitalisation during the Year	661	537	603	1,489	3,982
Closing Regulatory Asset Base	1,454	1,889	2,365	3,678	7,355
Average Regulatory Asset Base	1,157	1,671	2,127	3,021	5,516
Hypothetical Asset Base	1,587	1,587	1,587	1,587	1,587
Average RAB for Return	2,744	3,258	3,714	4,608	7,103

9.3. The Authority noted that MIAL have used the abbreviation RB to denote the Regulatory Base as defined in the SSA whereas the Authority has used the abbreviation RAB to denote the same. The Authority, based on MIAL submission dated 11.10.2011, noted that MIAL have applied following principles for computation of RAB:

9.3.1. MIAL have computed RAB for each year as average of opening and closing RAB.

9.3.2. Capital expenditure during the relevant year is added to the RAB.

9.3.3. MIAL have excluded DF funded assets from the RAB and have not claimed any depreciation on assets funded through DF assuming that replacement of such assets would be funded through DF.

9.3.4. MIAL have excluded upfront fee paid to AAI from the RAB

9.3.5. The CWIP not capitalised during the year has not been included in the RAB.

9.4. The Authority further noted that the following approach has been adopted by MIAL for firming up RAB during the regulatory control period based on their submission dated 11.10.2011:

9.4.1. Financial year 2009-10 has been taken as the first year of the control period.

9.4.2. The closing RAB as computed for FY 2008-09 forms the opening RB for the first year of the control period.

9.4.3. The Assets capitalised during the year have been added to the opening RAB and adjusted for depreciation charged during the year to arrive at closing value of RAB for 2009-10.

9.4.4. RAB for other years of control period has been computed on similar basis.

9.5. MIAL, vide their initial submission dated 11.10.2011, provided the following year-wise and category-wise asset addition figures:

Table 24: Year wise and category wise asset addition as submitted by MIAL

(Amount in Rs. Crores)	2006-07	2007-08	2008-09	2009-10	2010-11	2011-12	2012-13	2013-14
Buildings / Improvements	52.8	83.9	312.5	214.3	43.3	3.7	1,133.4	5,060.8
Runways	-	-	-	127.6	177.4	-	-	-
Taxiways and Aprons	74.7	17.5	169.5	-	316.8	294.5	91.5	330.8
Plant and Machinery	22.5	23.3	142.9	105.2	46.0	167.4	183.1	1,095.2
Computers	4.2	7.9	23.4	5.5	3.0	1.7	-	11.7
Office and Other Equipment	6.5	7.7	26.2	2.9	2.9	6.4	6.0	-
Furniture and Fixtures	4.7	7.0	11.7	7.2	7.5	34.3	-	277.8
Vehicles	0.1	0.0	0.1	(0.1)	-	-	-	-

Observations on computation of RAB

9.6. While reviewing the submissions made in respect of RAB, MIAL were requested to submit clarifications/Auditor Certificates on the following aspects:

9.6.1. The historical year-wise and category-wise Asset Addition and CWIP figures;

9.6.2. The historical year-wise interest cost capitalised; and

9.6.3. The historical year-wise and category-wise Asset Addition figures in accordance with Income Tax Act, 1961

9.7. In response, MIAL submitted the following certificates for consideration of the Authority:

9.7.1. The capital expenditure incurred year wise and CWIP figures;

9.7.2. The historical year-wise and category-wise Asset Addition;

9.7.3. The historical year-wise interest cost capitalised;

9.7.4. The historical year-wise and category-wise Asset Addition in accordance with Income Tax Act, 1961

9.8. Auditor certifications for capital expenditure incurred, category-wise historical asset additions and historical interest cost capitalised have been reviewed and certain differences were identified from the numbers submitted by MIAL with respect to the capital expenditure incurred, category-wise historical asset additions and historical interest cost capitalised. Consequently, numbers based on the Auditor's certificates with respect to these assets were updated in the financial model submitted by MIAL.

9.9. MIAL submitted year-wise and category-wise asset addition figures, as certified by their auditor, for financial years till 2011-12, which are presented below:

Table 25: Revised Year-wise and Category-wise Asset addition figures as on 31.03.2012

(Amount in Rs. Crores)	2006-07	2007-08	2008-09	2009-10	2010-11	2011-12
Buildings / Improvements	52.8	83.9	312.5	214.3	43.3	123.5
Runways	-	-	-	127.6	177.4	136.6
Runways, Taxiways and Aprons	74.7	17.5	169.6	-	316.8	192.7
Plant and Machinery	22.5	23.3	142.9	105.2	46.0	17.7
Computers	4.2	7.9	23.4	5.5	3.0	2.4
Office and Other Equipment	6.5	7.7	26.2	2.9	2.9	0.3
Furniture and Fixtures	4.7	7.0	11.7	7.2	7.5	2.8
Vehicles	0.1	-	0.1	(0.1)	-	-

9.10. Further MIAL, vide their submission dated 26.06.12, revised the projected capitalisation for FY13. The revised year-wise and category-wise asset addition figures after considering revised projected capitalisation for FY13 are as under:

Table 26: Revised Projected Capitalisation figures as on 31.03.2012

(Amount in Rs. Crores)	2006-07	2007-08	2008-09	2009-10	2010-11	2011-12	2012-13	2013-14
Buildings / Improvements	52.8	83.9	312.5	214.3	43.3	123.5	1013.6	5060.8
Runways, Taxiways and Aprons	74.7	17.5	169.5	-	316.8	192.7	56.7	330.8
Runways	-	-	-	127.6	177.4	136.6		
Plant and Machinery	22.5	23.3	142.9	105.2	46.0	17.7	306.2	1095.2
Computers	4.2	7.9	23.4	5.5	3.0	2.4	-	11.5
Office and Other Equipment	6.5	7.7	26.2	2.9	2.9	0.3	12.1	-
Furniture and Fixtures	4.7	7.0	11.7	7.2	7.5	2.8	31.5	277.8
Vehicles	0.1	0	0.1	(0.1)	-	-	-	-

9.11. As highlighted earlier, the Authority noted that MIAL have calculated RAB for each year as the average of the opening and the closing RAB and the return is calculated on average RAB.

9.12. The Authority has decided vide the Airport Guidelines that RAB for the purpose of determination of aeronautical tariffs shall be the average of the RAB value at the end of a tariff year and the RAB value at the end of the preceding tariff year, which is consistent with the approach adopted by MIAL in the tariff application.

9.13. The RAB value at the end of a tariff year is in turn determined in the above mentioned Guidelines as follows:

$$Closing\ RAB = Opening\ RAB + Commissioned\ Assets - Depreciation - Disposals\ ) + Incentive\ Adjustments$$

9.14. As per SSA the RAB for the year ‘i’ is to be determined in the following manner:

$$RB_i = RB_{i-1} - D_i + I$$

9.15. It would, therefore, appear that the regulatory base for the year ‘i’ is to be calculated by adding the asset additions undertaken during the year ‘i’ and subtracting the depreciation pertaining to the year ‘i’. In absence of any other guidance, it has to be understood that asset additions undertaken during the period essentially refer to the value of assets capitalised during the period.

9.16. The Authority, while reviewing MIAL submission on computation of RAB, noted that the project cost being proposed by MIAL comprised both aeronautical and non-aeronautical assets. Since RAB, as defined in SSA, should comprise only aeronautical assets, the project cost as submitted by MIAL needed to be segregated into aeronautical and non-aeronautical assets. The Authority has considered the issue of allocation of assets into aeronautical and non-aeronautical assets in para 7. The ratio to be applied for allocation of project cost to aeronautical assets, as tentatively decided by the Authority, has been presented in Tentative Decision No9.

9.17. The Authority further noted that RAB, as submitted by MIAL, comprised components of hypothetical RAB, operational capital expenditure and retirement compensation paid by MIAL to AAI. The Authority has discussed MIAL's submission in respect of all these three components. The discussion on operational capital expenditure, determination of hypothetical RAB and consideration of retirement compensation has been presented in para 8, 10 and 11 respectively.

9.18. The value of operational capital expenditure being considered by the Authority has been presented in Tentative Decision No10. However, such capital expenditure needs to be allocated into aeronautical assets through application of the ratio referred to in para 9.17 above.

9.19. The Authority has discussed the determination of hypothetical RAB, as proposed by MIAL, and the value of hypothetical RAB (proposed to be considered towards RAB) in Tentative Decision No14. The Authority has further tentatively decided not to consider retirement compensation as part of RAB.

9.20. Based on the above tentative views of the Authority, RAB values being considered by the Authority towards determination of Target Revenue are different from those proposed by MIAL.

9.21. From the formula given in SSA, it can be argued that the Return on RAB for the purpose of tariff determination is to be calculated based on the closing RAB. However, the determination of Return on RAB at the closing value of RAB has following associated issues:

9.21.1. Such an approach would tantamount to providing returns for the full period (year) for an asset which gets capitalised, say, even during the last month of the year

9.21.2. Such an approach would also tantamount to not providing any returns on an asset which gets disposed during, say, the last month of the year

9.22. In view of the above, it appears that the approach suggested by MIAL, which is to determine return on RAB at the average value of RAB would be acceptable at this stage of tariff determination. The same would be in accordance with the Airport Guidelines issued by the Authority.

9.23. Based on the above analysis, the Authority calculates the yearly RAB for the purposes of tariff determination according to the following Table 27 (considering the adjustment to RAB on account of DF as per MIAL's scheme of mapping capitalised assets onto DF collected). The Authority has proposed an alternative scheme indicated in para 9.37 below, and that the final calculation of Average RAB would be made taking into account the stakeholder's comments thereon.

Table 27: Regulatory Asset Base as being presently considered by the Authority for tariff determination

	2009-10	2010-11	2011-12	2012-13	2013-14
Opening HRAB	712.44	680.78	645.48	610.03	580.54
Depreciation	31.66	35.30	35.44	29.49	25.28
Closing HRAB	680.78	645.48	610.03	580.54	555.26
Opening Regulatory Asset Base	848.37	1,184.82	1,628.05	1,976.14	3,259.56
Depreciation & Amortisation	57.69	90.77	114.13	154.49	296.75
Capitalisation During the year	394.14	534.00	462.22	1,437.90	4,631.09
Closing Regulatory Asset Base	1,184.82	1,628.05	1,976.14	3,259.56	7,593.90
Average Regulatory Asset Base	1,016.60	1,406.44	1,802.10	2,617.85	5,426.73
Average HRAB	696.61	663.13	627.75	595.29	567.90
Net Regulatory Asset Base	1,713.21	2,069.56	2,429.85	3,213.14	5,994.63

Tentative Decision No11. Regarding calculation of Average RAB for the purposes of calculating Return on RAB

11.a. **The Authority tentatively decided to calculate RAB for each year as the average of the opening and the closing RAB (as presented in Table 27) and calculate return for each year on the average RAB.**

RAB adjustment on account of Actual date of commissioning/disposal of assets

9.24. Pursuant to Consultation Paper No. 32/2011-12 dated 3rd January 2012 regarding determination of Aeronautical Tariff in respect of IGI Airport, New Delhi for the 1st Control Period, in response to stakeholder comments on calculating depreciation on actual date and not on the average of the year based on half way through the tariff year, the Authority had analyzed and found that change in the basis of computation of depreciation led to difference in Target Revenue for the Control Period. The Authority, in Order No. 03/2012-13 dated 24.04.2012 in the matter of determination of aeronautical tariff in respect of IGI Airport, New Delhi (DIAL Tariff Determination Order), had decided that the difference in the amount of depreciation computed based on actual date of commissioning / disposal of assets and depreciation computed considering that such asset had been commissioned / disposed half way through the Tariff Year would be adjusted at the end of the Control Period considering Future Value of the differences for each year in the Control Period.

9.25. Further, in the said DIAL Tariff Determination Order, the Authority had found that change in the basis of computation of depreciation would also have an impact on the value of RAB and associated Return on RAB. The Authority had decided that difference in the value of Return on RAB calculated based on actual date of commissioning / disposal of assets and computed considering such asset had been commissioned / disposed half way through the Tariff Year would also be adjusted at the end of the Control Period considering Future Value of the differences for each year in the Control Period.

9.26. The Authority, in the said DIAL Tariff Determination Order, also decided that to maintain consistency in computations for the future Control Period, the regulatory accounts for the asset would be adjusted considering the actual date of commissioning / disposal.

9.27. The Authority proposes to adopt the similar approach for MIAL.

Tentative Decision No12. Regarding RAB adjustment and Depreciation calculated on actual date of commissioning/disposal of assets

12.a. **In respect of Depreciation, the Authority tentatively decided that difference between the amount of depreciation calculated based on actual date of commissioning/ disposal of assets and the amount of depreciation calculated considering such asset has been commissioned/ disposed half way through the Tariff Year will be adjusted at the end of the Control Period considering Future Value of the differences for each year in the Control Period**

12.b. **Furthermore, the Authority tentatively decided that the difference between the value of Return on RAB calculated based on actual date of commissioning/ disposal of assets and that calculated considering such asset has been commissioned/ disposed half way through the Tariff Year will also be adjusted at the end of the Control Period considering Future Value of the differences for each year in the Control Period.**

Adjustment of RAB on account of DF

9.28. MIAL, in their MYT Proposal dated 11.10.2011, stated that

> *"Further, MIAL has excluded DF funded assets from the RB and has not claimed any depreciation on assets funded through DF assuming that replacement of such assets would be funded through DF."*

9.29. As a principle, the Authority has proposed to reduce the aeronautical component of the allowable project cost by the amount of DF to arrive at the Regulatory Asset Base.

9.30. MIAL have provided the following details, certified by auditors, on the amount of DF collected by them till financial year 2011-12, assets funded through (Airport) Development Fee till financial year 2011-12 and Development Fee tied in Capital Works-in-Progress (CWIP). Essentially, out of the DF collected by MIAL till FY 2012 of Rs 636.6 crores (net of collection charges), MIAL has shown a capitalisation of assets of Rs 77.1 crores as per Table 28. An amount of Rs 595.5 crores has been shown by MIAL to be tied in CWIP.

Table 28: Details submitted by MIAL on ADF Collection and Assets funded through ADF

(in Rs crores)	FY10	FY11	FY12	Total
Airport Development Fee collected	285.61	325.13	25.86	636.6
Assets funded through ADF	26.87	46.00	4.21	77.08
Capital Works-in-Progress funded through ADF	258.74	279.13	21.65	559.52

9.31. Apart from the application of DF towards assets funded through it (as per the submission of MIAL in the above, the Authority also notes the final capitalisation schedule of the aeronautical RAB based on various submissions of MIAL and auditor certifications. The difference between the capitalisation schedule of tangible assets as per MIAL submission and that calculated by the Authority arises on account of disallowances to the project cost. The Authority has applied the same aeronautical / non-aeronautical asset allocation as has been proposed by MIAL for the present (Refer 7.12). The calculations are presented in the table below.

Table 29: Capitalisation schedule of the aeronautical RAB submitted by MIAL

(in Rs crores)	FY10	FY11	FY12	FY13	FY14
Capitalisation Schedule of Tangible Assets (as per MIAL submission)	462.58	596.82	475.94	1,420.13	6,775.96
Capitalisation of Aero RAB (as per Authority consideration) applying RAB disallowances as proposed by the Authority and applying the Aero/ Non-Aero allocation to capitalisation schedule	421.01	579.99	466.43	1,437.90	6,354.03

9.32. Pursuant to the Authority's Order No. 02/2012-13 dated 18.04.2012 in the matter of determination of Development Fee in respect of CSI Airport, MIAL, in their submission dated 26.06.2012, stated that

> *"MIAL is in the process of obtaining a loan against securitization of approved Development Fee (DF) of Rs. 876 crores. The loan against DF is expected to be received in July 2012 and would be repaid over the remaining collection period of 21 months. Rate of interest for this loan is expected to be around 11.25% pa (excluding 0.75% as upfront fee) of the loan amount. Interest payable on the loan is charged to the profit & loss account."*

9.33. The Authority noted that the amount reflected in MIAL submission towards Development Fee funded assets is different from the amount of Development Fee billed /

collected in the respective year and the difference is being reflected as Development Fee tied in Capital-Works-in-Progress (CWIP). MIAL submitted auditor certificates on the Development Fee collected, value of Development Fee funded assets as on 31.03.2012, and value of Development Fee tied in CWIP as on 31.03.2012.

9.34. The Authority further noted that MIAL has not considered any Development Fee funded asset for capitalisation in FY 13. During discussions MIAL submitted that the capitalisation of Development Fee funded assets has been considered in August 2013 and August 2014 on account of commissioning of the domestic terminal and international terminal respectively.

9.35. The scheme proposed by MIAL along with their proposal for securitisation of DF discussed in para 9.32, would essentially lead to inferring the following adjustments to RAB:

9.35.1. Reduction in RAB on account of DF, for the first three years of the current Control Period i.e. from FY 2009-10 to FY 2011-12, to be based on auditor certified figures of assets funded through DF mentioned in 9.30 above.

9.35.2. The DF amount of Rs 595.5 crores (tied in CWIP as on 31.03.2012) and additional Rs. 876 crores (billed and Rs. 780 crores proposed to be securitised after issuance of Authority's order 02/2012-13 dated 18.04.2012) to be removed from RAB at the time of capitalisation of domestic terminal in August 2013.

9.35.3. Interest outgo on securitization of Rs. 780 crores to be considered as expense

9.35.4. The additional DF amount, as may be billed / securitised, will be removed from RAB in August 2013 since thereafter upto the end of the current Control Period i.e. 31.03.2014, there is no proposal for additional capitalisation.

9.35.5. The RAB reduction schedule would be as presented below:

Table 30: RAB reduction schedule as per MIAL

(in Rs crores)	FY10	FY11	FY12	FY13	FY14	Total
Capitalisation of Aero Asset (as per Authority consideration)*	421.0	580.0	466.4	1,437.9	6,354.0	**9,259.4**
Assets funded through ADF**	26.9	46.0	4.2	-	1,722.9	**1,800.0**
Capitalisation of Aero RAB, if MIAL's submission on assets funded through DF is accepted	394.1	534.0	462.2	1,437.9	4,631.1	**7,459.4**
Annual Depreciation charge on aeronautical RAB, if MIAL's submission on assets funded through DF is accepted	57.7	90.8	114.1	154.5	296.7	**713.8**

* - As per the 2nd row of Table 29: Capitalisation schedule of the aeronautical RAB submitted by MIAL

** - Figures till FY 12 are as per the 2nd row of Table 28: Details submitted by MIAL on ADF Collection and Assets funded through ADF and figures for FY 13 and FY 14 have been derived following MIAL's approach of DF capitalisation

9.36. With MIAL following the practice of mapping DF amounts to specific assets being constructed and subsequently capitalised, the Authority notes that this could imply mapping specific means of finance towards specific components of RAB. To this extent it would also impact determination of RAB and associated regulatory treatment (depreciation and return on RAB) for determination of tariff. The Authority sees the levy of DF as a measure of last resort. After levy of DF on passengers and billing of associated amounts in any given period, the above approach would appear to increase the burden on passengers if the assets being capitalised in the period are considered to be funded through other means of finance while assets funded through the amount of DF billed are taken to be capitalised with a time lag subsequently in later years.

9.37. Since, the Authority considers DF a measure of last resort, based on consideration of various aspects mentioned above, the Authority views the following alternate scheme of adjusting RAB on account of DF billed/ securitised as more appropriate:

9.37.1. Make adjustments to RAB during a particular year to the extent of DF amount billed / securitised in that year in the current Control Period. This would imply applying this principle to the first three years of the Control Period as well.

9.37.2. Interest outgo on securitization to be considered as expense

9.37.3. The RAB reduction schedule as per this alternate scheme is tentatively calculated as below:

Table 31: RAB reduction schedule as per the Authority

(in Rs crores)	FY10	FY11	FY12	FY13	FY14	Total
Under scheme based on MYTP submissions by MIAL						
Capitalisation of Aero Asset (as per Authority consideration)	421.0	580.0	466.4	1,437.9	6,354.0	**9,259.4**
Assets funded through ADF	26.9	46.0	4.2	-	1,722.9	**1,800.0**
Capitalisation of Aero RAB, if MIAL's submission on assets funded through DF is accepted	394.1	534.0	462.2	1,437.9	4,631.1	**7,459.4**
Annual Depreciation charge on aeronautical RAB, if MIAL's submission on assets funded through DF is accepted	57.7	90.8	114.1	154.5	296.7	**713.8**

Under alternative scheme considered by the Authority						
Capitalisation of Aero Asset (as per Authority consideration)	421.0	580.0	466.4	1437.9	6354.0	**9,259.4**
Assets funded through ADF*	285.6	325.1	25.9	981.3	437.0	**2,055.0**
Capitalisation of Aero RAB (as per Authority consideration)	135.4	254.9	440.6	456.6	5,917.0	**7,204.4**
Annual Depreciation charge on aeronautical RAB	50.3	69.7	86.2	102.1	249.4	**557.6**

* - Figures till FY 12 are as per the 1st row of Table 28: Details submitted by MIAL on ADF Collection and Assets funded through ADF and figures for FY 13 and FY 14 have been derived following the Authority's approach of DF capitalisation

9.38. It is noted that the annual depreciation charge under the alternative scheme considered by the Authority is lower than that according to MIAL's scheme. Lower depreciation would result in lower X-factor, ceteris paribus.

9.39. Under both the approaches (MIAL's treatment as well as the Authority's alternative scheme), the Authority also notes that the DF levy, at the rates being discussed in this Consultation Paper, would continue after the completion of the Project based on the present traffic projections. The Authority recommends that RAB adjustment on account of DF for the next control period may be considered as follows:

9.39.1. RAB adjusted on account of DF billing / additional amounts securitised in respective future years;

9.39.2. On the declared date of project completion (as of now expected by MIAL to be August 2014), the RAB to be reduced by balance of DF to the extent not already reckoned/ adjusted

9.39.3. The interest outgo on securitisation of DF to be considered as expense

Table 32: Illustration of calculation of RAB reduction under the alternative scheme of the Authority for accounting of DF

Particulars (in Rs crores)	Amount
Final DF approved	2,000
DF amount billed upto the date of project completion	1,200
DF securitized amount	500
Amounts remaining to be billed / securitized as on date of project completion	300
Deemed RAB reduction on the date of project completion (balance of DF to the extent not already reckoned / adjusted)	300

9.39.4. The figures in the above table are merely for the purpose of illustrating the proposed scheme for the purposes of calculating impact of DF on RAB reduction on the date of completion of the project. The actual figures may vary.

9.39.5. The Authority notes that MIAL may be able to make efforts in future and make alternative arrangements for means of finance before completion of the project including the funding gap of Rs. 819.05 crores mentioned in Tentative Decision No6 above. In such a case, the Authority would review the levy of DF and make appropriate adjustments to RAB.

9.40. Pursuant to stakeholder consultations, the Authority proposes to seek auditor certification from MIAL of the amounts proposed to be adjusted from RAB under the alternate scheme presented at para 9.37 above. The Authority will thereafter take a final view in the matter and consider such RAB reduction schedule in the final calculations as part of the final Order on determination of tariffs and DF for MIAL.

Tentative Decision No13. Regarding RAB adjustment on account of DF

13.a. **The Authority tentatively decided to consider DF funding of RAB such that RAB to be capitalised in any tariff year would be first reduced to the extent of DF amounts billed / securitised and not already reduced from RAB.**

Truing Up: 2. **Correction / Truing up for Tentative Decision No13**

2.a. ***The Authority proposes to true up the RAB adjustment on account of DF based on actual RAB capitalisation schedule as well as the actual DF billing / securitisation schedule subject to Authority's review of the same.***

10. Hypothetical Regulatory Asset Base

10.1. MIAL, vide their initial submission dated 11.10.2011, have presented their approach for determination of Regulatory Base for the first year of the control period. MIAL have stated that:

> *"The Regulatory Base for the first year of the control period has to be determined based on the RB for the year preceding the control period and the formula for computation of same has been defined as*
>
> *RB_0 for the first regulatory period would be the sum total of*
>
> *(i) the Book Value of the Aeronautical Assets in the books of the JVC and*
>
> *(ii) the hypothetical regulatory base computed using the then prevailing tariff and the revenues, operation and maintenance cost, corporate tax pertaining to Aeronautical Services at the Airport, during the financial year preceding the date of such computation.*
>
> *In order to determine the Regulatory Base for the first year of the control period, the RB for the preceding year has to be computed wherein hypothetical RB has to be added in addition to the book value of aeronautical assets in the books of MIAL."*

10.2. For the determination of Hypothetical Regulatory Base, MIAL further submitted that

> *"As per the Schedule-1 of the SSA, hypothetical regulatory base has to be computed using the then prevailing tariff and revenue, operation and maintenance expenditure and corporate tax pertaining to Aeronautical Services during the financial year preceding the date of such computation.*
>
> *The control period for the filing is starting from FY 2009-10, thus the hypothetical regulatory base has to be computed as closing value for the year FY 2008-09 based on the specified parameters by solving the equation of Target Revenue for Hypothetical Regulatory Base for the year 2008-09."*

10.3. Details of calculation of Hypothetical Regulatory Base, submitted by MIAL in their initial submission, are as under:

Table 33: Computation of Hypothetical Regulatory Base initially submitted by MIAL

Particulars	2008-09 (in Rs. Crore)
Aeronautical Revenue [A]	375
Non-aeronautical Revenue [B]	563
Operation and Maintenance Expenditure pertaining to Aeronautical Services [C]	311
Tax pertaining to Aeronautical services [D]	1.6
WACC [E]	14.56%
Hypothetical Regulatory Base (A+30%*B – (C+D))/E	1587

10.4. On the components in the above calculation, MIAL stated that

"The operation and maintenance expenditure pertaining to Aeronautical services for FY 2008-09 has been determined based on the segregation of O&M cost for FY 2009-10 into Aeronautical and Non-Aeronautical Services as per the KPMG study."

MIAL further stated that, "The Tax for Aeronautical Services has been computed on MAT basis as per the provision of the Income Tax Act, 1961. WACC has been determined based on the actual gearing of 68.17%, pre-tax weighted average cost of debt of 10.06% and post-tax cost of equity of 24.20%."

10.5. However, vide their submission dated 23.11.2011, MIAL revised their Hypothetical RAB calculation stating the following:

1. *"MIAL had earlier considered WACC based on actual gearing, cost of debt and cost of equity for FY 09 while computing the Hypothetical Regulatory Base (HRB). However, upon careful reading of definition of HRB given in SSA it was noticed that actual values of only expenses and revenues as specified therein for FY 09 is to be considered. Since HRB is dependent on notional business value of the airport leased to MIAL at the time of privatisation during the year 2005-06, it would be appropriate if the WACC is considered equivalent to what is indicated at the time of bidding i.e. 11.6%. Further, the HRB once becomes part of the overall regulatory base, the same needs to be depreciated like any other physical fixed assets. Accordingly HRB calculation is being revised…."*

10.6. The revised calculation of Hypothetical Regulatory Base, as submitted by MIAL as per para 10.5 above, is as under:

Table 34: Computation of Hypothetical Regulatory Base as revised by MIAL

Particulars	2008-09 (in Rs. Crores)
Aeronautical Revenue [A]	375
Non-aeronautical Revenue [B]	563
Operation and Maintenance Expenditure pertaining to Aeronautical Services [C]	311
Tax pertaining to Aeronautical services [D]	1.6
WACC [E]	11.6%
Hypothetical Regulatory Base (A+30%*B – (C+D))/E	1991

10.7. The components of Hypothetical RAB as presented in the table above have been divided into sub-components as follows:

Table 35: Components of Hypothetical Regulatory Base in revised calculation of MIAL

Particulars	2008-09 (in Rs. Crore)
Aeronautical Revenues	375
Landing Revenues	270
Parking Charges	18
PSF	83
X-Ray	4
Non Aeronautical Revenues	
30% of NAR of Rs.563 crore	169
Less - Aeronautical Expenses	
Operation and Maintenance Expenditure pertaining to Aeronautical Services	311
Corporate Tax pertaining to Aeronautical services (MAT rate 15% + SC 10% & EC 3%)	1.6
WACC (Bid WACC)	11.60%
Hypothetical Regulatory Base	1991

Observations on Hypothetical Regulatory Asset Base:

10.8. In considering MIAL's submissions and formulating tentative views on the issue, the Authority reviewed the following aspects:

10.8.1. Definition of Hypothetical Regulatory Base under the SSA;

10.8.2. Date of determination of Hypothetical Regulatory Base; and

10.8.3. Each of the components for determination of Hypothetical Regulatory Base as per provisions of the SSA.

10.9. According to Schedule 1 of the SSA:

RB_0 for the first regulatory period would be the sum total of

i) the Book Value of the Aeronautical Assets in the books of the JVC and

ii) the hypothetical regulatory base computed using the then prevailing tariff and the revenues, operation and maintenance cost, corporate tax pertaining to Aeronautical Services at the Airport, during the financial year preceding the date of such computation.

10.10. MIAL in their submission have computed the Hypothetical Regulatory Base considering a share of non-aeronautical revenue. They have submitted an auditor certificate for the amount of non-aeronautical revenue for FY 08-09, which certifies the components being considered in the calculation of Hypothetical Regulatory Base. One of the components being certified is non-aeronautical revenue (including cargo income and net of revenue from non-transfer assets) for FY 08-09 with a value of Rs 5,632 millions.

10.11. As discussed earlier in para 5.13 and 8.a, the first regulatory period for tariff determination for MIAL is proposed to be considered from 1st April 2009 to 31st March 2014. Accordingly, hypothetical regulatory base has to be computed using the relevant costs and revenues for the financial year 2008-2009, as proposed by MIAL.

10.12. The hypothetical RAB would, accordingly, need to be computed using values of the following components for financial year 2008-09:

(i) Revenues at prevailing tariffs in the year;

(ii) Operation and Maintenance cost; and

(iii) Corporate tax pertaining to Aeronautical Services at the Airport.

10.13. Further, the computation would require consideration and adoption of a suitable discount factor for the purpose of valuation.

10.14. The Authority notes that certain components, considered by MIAL in their calculation of HRAB, as indicated in the Table 35 above is not in line with the provisions indicated in the SSA and will change on account of the following factors:

10.14.1. MIAL have computed the Hypothetical Regulatory Base considering a share of non-aeronautical revenue, which is not in line with the methodology of calculation provided in the SSA;

10.14.2. Operation and Maintenance Expenditure pertaining to Aeronautical Services, does not include the extraordinary expense of Rs 54 crores (*reimbursed to AAI towards pay revision of AAI employees assigned to the Company during the operation support period);*

10.14.3. Aeronautical revenue, does not include the Fuel Throughput Charges (FTC), as the same is considered to be non-aeronautical by MIAL;

10.14.4. "Bid WACC" of 11.6% used to determine Hypothetical RAB.

10.14.5. Corporate Tax pertaining to Aeronautical services would hence have to be recalculated based on the treatment of FTC, the extraordinary expense of Rs 54 crore; and

Consideration of Non-aeronautical Revenue in Hypothetical RAB

10.15. As can be seen from the Table 35 above, MIAL have computed the Hypothetical Regulatory Base considering a share of non-aeronautical revenue. MIAL have submitted an auditor certificate for the components being considered in the calculation of Hypothetical Regulatory Base. One of the components being certified is non-aeronautical revenue (including cargo income and net of revenue from non-transfer assets) for FY 2008-09 with a value of Rs 563 crores.

10.16. As stated in para 10.2 above, MIAL have calculated the value of Hypothetical RAB by solving the the equation of Target Revenue, hence considering the 30% of non-aeronautical revenue for the calculation of Hypothetical RAB. However, the Authority noted that the SSA stipulates the calculation of Hypothetical RAB as stated in para ii) of 10.9 and not by solving the equation of Target Revenue. As per the SSA, revenues, expenses and corporate tax pertaining to aeronautical services has to be considered for the calculation of Hypothetical RAB.

10.17. In view of the above, the Authority proposes not to consider 30% of non-aeronautical revenue for the calculation of Hypothetical RAB. The impact of not considering 30% of non-aeronautical revenue for the calculation of Hypothetical RAB on the X-factor is as under:

Table 36: Sensitivity – Impact on X-factor due to not considering 30% of non-aeronautical revenue in Hypothetical RAB

Parameter	X Factor as per the Base Model	X Factor after change in assumptions
Not considering 30% of non-aeronautical revenue in the calculation of Hypothetical RAB	-873.36%	-446.38%

Exclusion of Extraordinary expense of Rs 54 crores from Operation and Maintenance Expenditure

10.18. As seen from the definition of Hypothetical RAB (in Schedule 1 of the SSA), there is no reference to efficient Operation and Maintenance costs. Instead, it is referring to the prevailing i.e., actual cost of operation and maintenance.

10.19. While calculating the Operation and Maintenance Expenditure pertaining to Aeronautical services, MIAL have excluded the extraordinary expense of 54 crores. In response to the Authority seeking clarification, MIAL, vide their submission dated 31.07.2012, stated that

> *"As per OMDA, MIAL was required to reimburse AAI towards pay revision of AAI employees assigned to the Company during the operation support period. Subsequent to the recommendations of pay commission during FY 09, the Company has reimbursed to AAI towards pay revision of AAI employees from 01.01.2007 to 31.03.2009 to the extent of Rs 54 crores."*

10.20. In this regard, Principle 5 in Schedule 1 of the SSA states that:

> *"… Further in respect of regulation of Aeronautical Services the approach to pricing regulation should encourage economic efficiency and only allow efficient costs to be recovered through pricing,* ***subject to acceptance of imposed constraints such as the arrangements in the first three years for operations support from AAI*** *(emphasis supplied).****"***

10.21. The Authority observed that this expense had to be incurred by MIAL on account of pay revision and thus forms part of operations support cost towards AAI. Hence treatment being made to operations support cost towards AAI should be extended to this extraordinary expense of Rs 54 crs also.

10.22. Based on the above, the Authority is of the view that MIAL's treatment of excluding the Rs 54 crores, as an extra-ordinary expense, from the calculation of Hypothetical RAB is not acceptable. The impact of considering the above amount of Rs.54 crores for calculation of the hypothetical asset base and its impact on the tariff increase requirements would be as under:

Table 37: Sensitivity – Impact on X-factor due to including extraordinary expense as admissible aeronautical expense in Hypothetical RAB

Parameter	X Factor as per MIAL submission	X Factor after considering extraordinary payment as admissible aeronautical expense
Considering extraordinary payment as admissible aeronautical expense	-873.36%	-750.26%

Treatment of Fuel Throughput Charges

10.23. Further, the Authority also noted that MIAL have in their calculation Aeronautical Revenues for the purpose of determining the HRAB not considered Fuel Throughput Charges (FTC) as part of aeronautical Revenues. MIAL have in their tariff proposal has considered FTC as non-aeronautical revenue stating that:

> *"FTC should be treated Non-aeronautical revenue for the purpose of tariff determination considering the views / decisions of the Authority that services such as Cargo Handling, Ground Handling and Into-plane not being provided by the Airport operator has been considered as Non — Aeronautical. FTC is a consideration for concession given to Oil Companies and no services are being provided by the Airport Operator to Oil Companies. AERA has also decided that Oil Companies are only selling ATF to the Airlines and not providing any services and therefore will not be covered under the Aeronautical services, hence FTC received by MIAL should not be considered as an Aeronautical charge."*

10.24. The Authority's views in respect of treatment of FTC as aeronautical revenue has been discussed and presented in paras from 20.27 to 20.50. Accordingly the Authority did not find MIAL's proposal for consideration of Fuel Throughput Charges as non-aeronautical revenue to be acceptable and accordingly proposed the revenue from Fuel Throughput Charges for FY 2009 to be included in determination of Hypothetical RAB.

WACC to be considered for Hypothetical RAB

10.25. MIAL, in their initial submission dated 11.10.2011, had computed WACC of 14.56% and proposed to consider this WACC for determination of Hypothetical RAB. MIAL's submission on computation of WACC for determination of Hypothetical RAB is presented in para 10.4.

10.26. As per their submission dated 23.11.2011, presented in para 10.5, MIAL proposed to use "Bid WACC" of 11.6% to determine Hypothetical RAB in their tariff submission instead of the earlier proposed value of 14.56%. The Authority notes that decreasing the WAAC has the effect on increasing the capitalisation, that is to say, Hypothetical RAB. The issue arising for consideration is what WACC should be applied for this purpose.

10.27. The Authority observed that at the time of restructuring of Delhi and Mumbai airports, an indicative WACC of 11.6% was given in the RFP. In the pre-bid clarifications, the significance of the same was stated as under:

> *"The post-tax cost of equity and debt assumed under the indicative post tax nominal WACC of 11.6% are 22.8% and 6.0% respectively. The purpose of the indicative post tax nominal WACC of 11.6% given in the RFP is to ensure consistency between Business Plans submitted by Bidders as part of their Offer."*

10.28. Thus, it is apparent that WACC of 11.6% mentioned in the RFP document was only indicative and the same was indicated to ensure consistency between the Business Plans submitted by the Bidders as part of their offer. Such consistency would not have been possible if each bidder was to use its own estimate of WACC. In this view of the matter, it is clear that the figure of 11.6% mentioned in RFP cannot in any way be treated to be the return which the bidder could have expected from the transaction. As such, the use of "Bid WACC" for calculation of hypothetical RAB does not appear to be justified.

10.29. In this context, the Authority noted that the SSA does not provide any explicit guidance on the use of any particular WACC value for the determination of hypothetical regulatory base. Further, the SSA provides for determination of hypothetical regulatory base at the commencement of the first regulatory period. For determination of tariffs for aeronautical services during the first regulatory period, the SSA provides for consideration of WACC as the nominal post-tax weighted average cost of capital, calculated using the marginal rate of corporate tax for the purpose of considering returns on regulatory base in general.

10.30. In this light, the Authority proposes to consider the WACC, which the Authority would allow and may be used being the Authority's assessment of fair return.

10.31. The impact of considering such WACC on the hypothetical asset base on the tariff increase requirements would be as under:

Table 38: Sensitivity – Impact on X-factor due to considering WACC as may be determined by Authority in Hypothetical RAB

WACC for determination of Hypothetical RAB	X Factor as per MIAL submission	X Factor after considering MIAL proposed WACC for determination of Hypothetical RAB
As determined by Authority for - 10.77%	-873.36%	-919.73%

Corporate tax pertaining to Aeronautical Services

10.32. As indicated in para 10.12 above, one of the elements to be considered for computing the hypothetical RAB is "Corporate tax pertaining to Aeronautical Services at the Airport, during the financial year preceding the date of such computation". It is observed that the Income Tax Act, 1961 does not define the term "corporate tax". As per FAQ available on the website of the Income Tax Department (www.incometaxindia.gov.in) in reply to Q.6 it is stated that "when companies pay taxes under the Income Tax Act it is called corporate tax". In a further reply under Q.34, the department has clarified that "The tax to be paid by the companies on their income is called corporate tax".

10.33. The Authority observed that MIAL have calculated the corporate tax pertaining to aeronautical services for FY 08-09 as part of Hypothetical Regulatory Base in the MYTP model as follows:

Table 39: Calculation of tax for consideration in Hypothetical Regulatory Base, as submitted by MIAL

Components	Amount (In Rs. Crores)
Aeronautical Revenue	375
Less: O&M Cost	311
Aeronautical EBIDTA	64
Less: Depreciation	31
Less: Interest	22

Components	Amount (In Rs. Crores)
PBT	10.6
Tax considering MAT as applicable for FY 08-09	1.2

10.34. The Authority observed that the tax considered by MIAL in the table above, Rs 1.2 Crore, is different from the value submitted by MIAL in their initial submission dated 11.10.2011 as well as the submission dated 23.11.2011, which is Rs 1.6 Crore and is also different from the value of tax as per the Auditor certificate, which is Rs 1.7 Crores and which may possibly be on account of rounding off.

10.35. MIAL, vide their submission dated 21.03.2012, clarified that while the applicable MAT rate under IT Act for FY 2008-09 was 10%, MIAL had earlier considered MAT rate of 15%. MIAL further requested the Authority to make the necessary changes in the tariff model to reflect actual applicable MAT rate. On the basis of this correction, the value of tax for FY 2008-09 was worked out to Rs 1.2 crore instead of earlier calculated and auditor certified value of Rs 1.7 crore.

10.36. The Authority further observed that the components, considered in the table above for the purpose of calculation of tax, will change on account of the tentative views taken by the Authority on treatment of Fuel Throughput Charges and extraordinary expense of Rs 540 millions. The Authority noted the following:

10.36.1. Aeronautical revenue, considered in the table above, does not include the Fuel Throughput Charges, as this was considered to be non-aeronautical by MIAL.

10.36.2. Further the O&M cost , considered in the table above, does not include the extraordinary expense of Rs 540 millions, discussed in para 10.19.

10.37. The Authority proposed that the calculation of tax pertaining to aeronautical services should be based on the revised values of components of the calculation and accordingly worked out the following tax calculation:

Table 40: Calculation of tax for consideration in Hypothetical Regulatory Base by the Authority

Components	Amount (In Rs. Crore)
Aeronautical Revenue	445
Less: O&M Cost	365
Aeronautical EBIDTA	80
Less: Depreciation	31
Less: Interest	22

Components	Amount (In Rs. Crore)
PBT	27
Tax considering MAT as applicable for FY 08-09	3.0

10.38. Comparison of Hypothetical Regulatory Base, as proposed by MIAL and as determined by the Authority based on the tentative decisions of the Authority, is presented below:

Table 41: Comparison of Hypothetical Regulatory Base by MIAL and by the Authority

Components of Hypothetical RAB	Value (in Rs Crore)	
	MIAL submission	Authority's views
Aeronautical Revenue [A]	375	445
Non-aeronautical Revenue [B]	563	-
Operation and Maintenance Expenditure pertaining to Aeronautical Services [C]	311	365
Tax pertaining to Aeronautical services [D]	1.6	3.0
WACC [E]	11.6%	10.77%
Hypothetical Regulatory Base (A+30%*B – (C+D))/E	1991	712.4

Tentative Decision No14. Regarding Hypothetical RAB

14.a. **The Authority tentatively decided to**

i) **Compute Hypothetical RAB in accordance with the principle of Schedule 1 of SSA**

ii) **Not to consider non-aeronautical revenue for inclusion in Hypothetical RAB**

iii) **To include Rs 54 crores (Extraordinary expenses in relation to AAI Operation support cost) in operating expenses in calculation of Hypothetical RAB**

iv) **To consider revenue from fuel throughput charges as part of aeronautical revenue for calculation of Hypothetical RAB**

v) **To consider WACC, as may be calculated by the Authority, to be used for calculation of Hypothetical RAB**

vi) To calculate corporate tax based on the value of Hypothetical RAB as per Authority's proposed decisions above for computation of Hypothetical RAB

14.b. **Accordingly the Authority tentatively decided that the Hypothetical RAB be taken as Rs 712.4 Crores.**

14.c. **Further the Authority also tentatively decided to depreciate the Hypothetical RAB at the tariff year wise average depreciation rate for aeronautical assets.**

11. Retirement Compensation

11.1. MIAL have considered, as part of RAB for tariff determination, a sum of Rs.261 Crores in FY 2009-10 towards Retirement Compensation payable to AAI and an additional amount of Rs. 56 Crores in FY 2011-12 payable to AAI towards Retirement Compensation post wage revision as per OMDA.

11.2. Further, vide submission dated 23.11.2011, MIAL submitted the treatment given to Retirement Compensation paid/payable to AAI in the books of accounts of MIAL and reasons for considering the same as part of the RAB. MIAL submitted that they have capitalised the Retirement compensation paid / payable to AAI in their books of accounts and the same has been amortised over a period of 27 years being balance period of initial 30 years as per OMDA. MIAL have accordingly considered the Retirement Compensation as a part of Regulatory Base. MIAL further submitted that in case the Authority feels otherwise and does not consider Retirement Compensation as part of Regulatory Base, the same shall be allowed as O&M Cost.

11.3. MIAL, vide their submission dated 31.07.2012, submitted that,

> *"MIAL provided Rs. 261 Crores in FY 10 towards Retirement Compensation payable to AAI pending finalization of wage revision of employees. Additional amount payable to AAI towards Retirement Compensation post wage revision of its employees of Rs. 56 Crs. was provided in FY 12. Payment schedule for the same has been agreed with the AAI. Expected payments as per the schedule for FY 13 and FY 14 are:*

In Rs crore	*FY 13*	*FY 14*
Payments to AAI	*21.1*	*20.8*

> *Payment schedule has been certified by the Auditor, the same is attached."*

Observations of the Authority on Retirement Compensation amount

11.4. While reviewing the treatment of Retirement Compensation amount, MIAL were requested to submit an Auditor's certificate for the historic payments made by them to AAI towards Retirement Compensation and also the schedule of future payments to be made to AAI towards Retirement Compensation.

11.5. The Auditor Certificate submitted by MIAL, certifies that MIAL have paid a sum of Rs.154.20 Crores to AAI towards Retirement Compensation in the FY 2009-10 and that there has been an adjustment of Rs 31.16 crores in FY 2010-11 as excess payment.

11.6. MIAL further submitted that they received a letter from AAI dated 01.11.2010 for One Time claim amounting to Rs. 93.84 crores and separately received monthly bills for the period upto March 2011 from AAI aggregating to Rs. 29.24 crores. Hence excess payment made of Rs 31.16 crores was adjusted by MIAL against amount payable to AAI during FY 11.

11.7. The schedule of future payment as per auditor certificate, submitted by MIAL, payable to AAI towards Retirement Compensation is as under

Table 42: Schedule of payment by MIAL to AAI towards Retirement Compensation

Particulars	2011-12	2012-13	2013-14	2014-15	2015-16	2016-17	2017-18	2018-19	2019-20
Future Payments (Rs. In Crores)	54.4	21.1	20.8	20.4	20.0	19.3	18.6	17.9	1.5

11.8. The Authority requested AAI to furnish the details of retirement compensation bills raised on MIAL by AAI. As per the details furnished by AAI, the Authority noted that the amount of Rs 260.8 crores was billed by AAI on 08th March 2010. However this bill was withdrawn by AAI and separate bills were submitted in the heads of One time component, Monthly claims and Supplementary monthly bill due to pay revision.

11.9. It is observed that the aforesaid liability on MIAL is arising out of the provisions made in OMDA. As per clause 6.1.1 of OMDA, for a period of three years from the effective date, AAI was to provide operational support to the JVC through the general employees in the manner and subject to the terms provided in the OMDA. This period has been termed as Operation Support Period. Further, as per clause 6.1.4, at any time during the operation support period not later than three months prior to the expiry of the Operation Support Period, the JVC shall make offers (on terms that are no less attractive in terms of salary, position etc. than the current employment terms of such employees) of employment to the general employees that it wanted to employ. However, JVC was required to make offers to a minimum of 60% of the general employees. The general employees had the option to accept or decline the offer within one month. The general employees who accepted offer of the JVC, upon resigning from AAI were treated to have ceased to be the AAI employees from the date of acceptance of offer or completion of the operation support period as applicable.

The OMDA also provided that if less than 60% of the general employees accept the offer of employment made by the JVC then the JVC was required to pay to AAI retirement compensation for such number of general employees as represent the difference between the 60% of the general employees and the number of general employees accepting offer of employment made by the JVC.

11.10. As stated in Para 11.1 above, MIAL have amortised the Retirement Compensation liability, as claimed by them, over the balance concession period, considering the Retirement Compensation amount as a part of RAB.

11.11. In this background, two options appear to be available regarding the treatment of Retirement Compensation liability:

11.11.1. Option I – The amounts paid by MIAL to AAI as certified by the Auditor in line with para 11.5 and 11.7 above, may be expensed out as operating expenditure as the payments are HR related and the amount of Rs.261 Crores in FY 2009-10 and of Rs. 56 Crores in FY 2011-12 may not be included in RAB; or

11.11.2. Option II – The amortisation of Rs.261 Crores and of Rs. 56 Crores proposed by MIAL on the grounds that of imposed constraints in OMDA may be considered.

11.12. The Authority, in line with its Tariff Order in respect of IGI Airport, Delhi, has tentatively decided to expense out the actual amount that is paid or will be paid by MIAL during the control period instead of capitalising the same.

Tentative Decision No15. Regarding consideration of payment made by MIAL in respect of Retirement Compensation to AAI as part of RAB

15.a. **The Authority has tentatively decided to expense out the actual amount that is paid or will be paid by MIAL during the control period instead of capitalising the same.**

11.13. The impact of Option-I on the 'X' factor has been analysed as under:

Table 43: Sensitivity – Impact on X-factor due to expensing out the Retirement Compensation instead of amortisation

Parameter	X Factor as per the Base Model	X Factor after change in assumptions
Expensing out the Retirement Compensation instead of amortising the same	-873.36%	-829.15%

12. Cost of Debt

12.1. MIAL, vide their submission dated 31.07.2012, submitted that total of term loan sanctioned to MIAL is Rs 4,231 crs, out of which MIAL have already withdrawn Rs 3,747.6 crs till 31.03.2012. MIAL further submitted that the balance of Rs 483.4 crores is envisaged to be withdrawn in FY 13 for project requirements.

12.2. The Authority sought Auditor's certificate(s) supporting MIAL's submissions on the rates of interest, drawdowns and repayments of term loans. MIAL submitted the auditor certificates, certifying drawdowns, repayments and rate of interests of term loans. The same is reproduced as below:

Table 44: Long Term Loan availed by MIAL as certified by MIAL's Auditor

Long Term Loan availed by MIAL (in Rs millions)					
Financial Year	Balance as at the beginning of the year	Availed during the year	Repaid during the year	Balance as at the end of year	Weighted average rate of interest
2006-07	-	-	-	-	0.00%
2007-08	-	9,500	-	9,500	9.65%
2008-09	9,500	4,290	-	13,790	9.93%
2009-10	13,790	6,417	-	20,207	10.18%
2010-11	20,207	6,761	-	26,968	9.79%

12.3. MIAL have also submitted auditor certificate, certifying historical year wise medium term and short term loan availed. The same is reproduced below:

Table 45: Medium Term Loan availed by MIAL as certified by MIAL's Auditor

Medium Term Loan availed by MIAL (in Rs millions)					
Financial Year	Balance as at the beginning of the year	Availed during the year	Repaid during the year	Balance as at the end of year	Weighted average rate of interest
2006-07	-	-	-	-	0.00%
2007-08	-	-	-	-	0.00%
2008-09	-	-	-	-	0.00%
2009-10	-	800	-	800	9.50%
2010-11	800	200	318	682	9.90%

Table 46: Short Term Loan availed by MIAL as certified by MIAL's Auditor

Short Term Loan availed by MIAL (in Rs millions)					
Financial Year	Balance as at the beginning of the year	Availed during the year	Repaid during the year	Balance as at the end of year	Weighted average rate of interest
2006-07	-	3,058	-	3,058	9.35%
2007-08	3,058	-	3,058	-	9.35%
2008-09	-	2,000	1,089	911	12.88%

Short Term Loan availed by MIAL (in Rs millions)					
Financial Year	Balance as at the beginning of the year	Availed during the year	Repaid during the year	Balance as at the end of year	Weighted average rate of interest
2009-10	911	-	911	-	12.75%
2010-11	-	2,500	-	2,500	10.25%

12.4. MIAL further submitted the auditor certificate for the weighted average rate of interest as follows:

Table 47: Weighted average rate of interest of MIAL as certified by MIAL's Auditor

Total Loan availed by MIAL (in Rs millions)					
Financial Year	Balance as at the beginning of the year	Availed during the year	Repaid during the year	Balance as at the end of year	Weighted average rate of interest
2006-07	-	3,058	-	3,058	9.35%
2007-08	3,058	9,500	3,058	9,500	9.59%
2008-09	9,500	6,290	1,089	14,701	10.05%
2009-10	14,701	7,217	911	21,007	10.20%
2010-11	21,007	9,461	318	30,150	9.79%

12.5. In response to the Authority's communication seeking reasons for clubbing the loan drawdown schedule for long term and short term and also for deriving the interest rates as weighted average of long term and short term loans, MIAL have, vide their submission dated 21.03.2012, stated that:

"Since the amount was taken as the bridge loan hence it is included in the short term loan schedule".

MIAL further clarified during the discussions that the loan amounts, indicated in the short term loan, were drawn as bridge loan towards funding the temporary gap in the means of finance for the capital expenditure. Hence these loans are to be considered along with the term loan.

12.6. The Authority also sought copies of the loan documents for these short term loans in support of MIAL's claim.

12.7. MIAL, vide their submission dated 31.07.2012, submitted the loan agreements entered into by MIAL with various banks for availing the short term loans. Based on the loan documents submitted by MIAL, the Authority noted the reasons for which these short term loans were sanctioned by various banks.

Table 48: Short term loan raised by MIAL towards temporary gap in the means of finance for capital expenditure

Sl.No	Short term loan (Rs. Crores)	Sanction date	Bank	Purpose mentioned as per the Loan Document
1.	200	29.04.2006	IDBI	Bridge Loan
2.	150	18.05.2006	UTI	As part of Rupee term loan towards modernisation and upgradation of Mumbai International Airport
3.	100	06.09.2008	Axis	Sub-limit to term loan for cash flow mismatch
4.	100	26.12.2008	Axis	Sub-limit to term loan for project vendor payments
5.	250	11.03.2011	Bank of India	Bridge loan to meet Capital Expenditure
6.	350	31.01.2012	Bank of India	Bridge loan to meet Capital Expenditure
7.	150	09.02.2012	IDBI	Bridge loan to meet Capital Expenditure
8.	300	06.03.2012	Axis	Bridge loan to meet Capital Expenditure

12.8. From the agreements, the Authority has noted that these short term loans were sanctioned with the purpose of meeting the gap in the means of finance for the capital expenditure and were disbursed to MIAL as sub-limit to the term loan arrangements entered into by MIAL with respective banks. Hence in view of the Authority, these short term loans can be considered as interim arrangement towards means of finance together with the term loan.

12.9. Further MIAL, vide their submission dated 26.06.2012, submitted the auditor certificate for loan drawdowns and rates of interest for FY 2012

Table 49: Weighted average rate of interest for FY 2012 as certified by MIAL's Auditor

Loan	Balance as at the beginning of the year	Availed during the year	Repaid during the year	Balance as at the end of the year	Weighted average rate of interest
Long Term	26,968.10	10,507.70	-	37,475.80	10.09%
Medium Term	681.82	-	303.03	378.79	9.90%
Short Term	2,500.00	8,000.00	2,500.00	8,000.00	11.18%
Total	30,149.92	18,507.70	2,803.30	45,854.59	

12.10. MIAL have, vide their letter dated 03.04.2012, submitted that some of the loan facilities will see a reset of interest rates in FY 13 and FY14. MIAL stated that

"Weighted average cost of debt for the Rupee Term Loan up to FY 2011-12 was 10.08% p.a. However last draw down in the month of October 11 was at an interest rate of 11.04 %. For the new draw-downs to be done during April 2012 to August 2012 interest rate is assumed to be higher at 11.50% considering hardening of interest rate and severe liquidity squeeze in the banking system. In fact Banks have been quite reluctant to disburse loans at the current rate of interest as it is below their cost of funds. Taking into account these factors, it ¡s expected that interest rates will further move up and accordingly projected to be at 12% and 12.5% as on 31st Dec 2012 and 31st Dec 2013 for the loan amounts where interest rate is to be reset i.e. a nominal increase of 50 basis points on every reset at December 2012 and December 2013."

12.11. Accordingly MIAL have calculated the annual average cost of debt for FY13 and FY14 to be 10.55% and 11.31% respectively.

12.12. MIAL, vide their submission dated 10.09.2012, provided the extract of the Common Loan Agreement and subsequent modification and further submitted that:

"As per the Common Loan Agreement signed between MIAL and consortium of 14 bankers, Applicable Interest Rate shall be 3 year G-sec ("Benchmark Rate") plus spread of 215 basis ("Spread") p.a. (amended to 265 basis points on 21.07.2011). On Reset dates the Benchmark Dates shall be re-fixed/calculated but the spread remains the same.

G-sec rate shall be calculated as simple average rate announced on six (6) immediately preceding business days of each Disbursement/ Reset Dates. The Benchmark Rate will be simple average rate of the annualized bid yields of the — year Government of India securities (G-sec yields) for 6 Business Days preceding the days of Disbursement/ Reset Date.

As per the Common Loan agreement Facility A and Facility D would reset in December 2012 and Facility B and Facility E would reset in December 2013 Considering the hardening of interest rate and severe liquidity squeeze in the banking system, Banks have been quite reluctant to disburse loans at the current rate of Interest as it is below their cost of funds. Taking into *account these factors, it is expected that interest rate will further move up and accordingly projected to be at 12% and 12.5% as on 31.12.2012 and 31.12.2013 for the loan amounts where interest rate is to be reset i.e. a nominal increase of 50 basis points on every reset at December 2012 and December 2013."*

12.13. The details of the loan facilities, as submitted by MIAL, are as follows:

Table 50: Details of loan facilities submitted by MIAL

Loan Facility	Amount (in Rs Crore)	Current Rate of Interest	Next Reset Date
Facility A	346.39	9.15%	December 31, 2012
Facility B	758.80	10.28%	December 31, 2013
Facility C	904.39	10.96%	December 31, 2014
Facility D	1,124.99	9.85%	December 31, 2012
Facility E	613.01	11.01%	December 31, 2013
Facility F	453.40	-**	December 31, 2014
Facility G	30.00	-**	December 31, 2015

*** - These loans have not been drawn yet and MIAL have submitted that these are proposed to be drawn in FY 2013.*

12.14. As per their submission in para 12.12, MIAL proposed to consider rate of interest of 12% for Loan Facility A and D after their scheduled reset on December 31, 2012 and 12.5% for Loan Facility B and Loan Facility E after their scheduled reset on December 31, 2013.

12.15. MIAL also submitted that the current rate of interest for Facility C of the loans is 10.96% and provided evidence for the same in the form of the letter from the bank while the rate of interest for Facility C of the loans being considered in the tariff model is 10.42%.

12.16. The weighted average Cost of Debt (R_d) for the control period, submitted by MIAL based on the computation from the outstanding debt and yearly average cost of debt as given in the table below, works out to be 10.46%.

Table 51: Weighted average Cost of debt submitted by MIAL (certified by auditors till FY 12)

Particulars	FY 10	FY 11	FY 12	FY 13	FY 14
Outstanding debt – In Rs. Cr.	2,021	2,947	4,548	4,231	4,231
Cost of Debt - %	10.20%	9.79%	10.13%	10.55%	11.31%

12.17. The Authority, in its Airport Order, had decided that:

"For estimating the cost of debt, the Authority will consider the forecast cost of existing debt likely to be faced by the airport, subject to the

Authority being assured of the reasonableness of such costs based on review including of the sources, procedure and method through which the debt was raised. For future debt likely to be raised over the control period or debt which is subject to a floating rate, the Authority may use forecast information on the future cost of debt, subject to the Authority being assured of the reasonableness of such costs, based on a review including of its sources, procedures and methods to be used for raising such debts."

12.18. In view of the MIAL submission presented in para 12.1, the Authority noted that the total debt sanctioned to MIAL towards means of finance for undertaking the capital expenditure for CSI Airport, Mumbai is Rs 4,231 crores, out of which MIAL have already withdrawn Rs 3,747.6 crores and would withdraw the remaining amount of Rs 483.4 crores in FY 13. The Authority, for the purpose of consideration of future rates of interest, has segregated the debt, to be raised by MIAL, in three categories:

12.18.1. Debt, which is contracted and already drawn by FY 12 (i.e. Loan Facility A, B, C, D and E): Current rates of interest for these tranches of loan are mentioned in the loan agreement and the reset of rates of interest is based on a formula indexed to G-Sec rates

12.18.2. Debt, which is contracted and yet to be drawn during the first control period (i.e. Loan Facility F and G): Rates of interest for these tranches of loan are not mentioned in the loan agreement and the reset of rates of interest is based on a formula indexed to G-Sec rates in the same manner as that for tranches A, B, C, D and E

12.18.3. Debt, which has not been contracted and may need to be raised afresh during the current control period

12.19. In respect of the debt, which is contracted and already drawn by FY 12 (i.e. Loan Facility A, B, C, D and E), the Authority noted that MIAL have incurred an interest cost till FY 12, which is also certified by their auditors. The Authority has tentatively decided to consider the actual cost of debt incurred by MIAL as certified by the auditors.

12.20. The Authority noted that while the loan facilities A, B, C, D and E have been drawn and are scheduled to see a reset of rates of interest in FY 13 and FY 14, the loan facilities F and G have not been drawn yet. The rates of interest likely to be levied on these seven tranches of the term loan contracted by MIAL are as under:

Table 52: Projected rates of interest as submitted by MIAL

Loan Facility	Projected Rate of Interest after reset	
	FY 13	FY 14
Facility A	12%	12%
Facility B		12.5%
Facility C	No reset in the first control period	
Facility D	12%	12%
Facility E		12.5%
Facility F**	11.5%	11.5%
Facility G**	11.5%	11.5%

*** - These loans have not been drawn yet and MIAL have submitted that these are proposed to be drawn in FY 2013.*

12.21. In respect of the debt, which is contracted and yet to be drawn in the current control period (Loan Facility F and G), MIAL have proposed to consider rate of interest of 11.5%. On this issue, the Authority noted the following:

12.21.1. MIAL have not availed all the loan facilities including Loan Facility F and Loan Facility G of the Common Loan and hence it is difficult to ascertain the total cost of debt for this Common Loan. The Authority also noted that the current rates for Loan Facility C and Loan Facility E are at 10.96% and 11.01% respectively.

12.21.2. The Authority had reference to the most recent Mid-Quarter Monetary Policy Review (September 2012) by Reserve Bank of India. The Authority observed that RBI decided to reduce the Cash Reserve Ratio by 25 basis points but RBI did not alter the interest rates. RBI stated in its review that,

> *"……….However, in the current situation, persistent inflationary pressures alongside risks emerging from twin deficits – current account deficit and fiscal deficit - constrain a stronger response of monetary policy to growth risks.……"*

12.22. In view of the above, the Authority feels that it is not possible to take a definitive view in this matter. However, considering the RBI review and the current rate of interest applicable for MIAL, the Authority feels that it may consider giving 50 basis points as a head room to MIAL from its current rate of interest at around 11%. Thus the Authority tentatively decides to consider 11.5% as a ceiling on the rate of interest for Loan Facility F and G.

12.23. As regards the rates of interest of Loan facilities A, B, C, D and E, which are scheduled to be reset during balance years in the current control period (FY 13 and FY 14), refer Table 52 above, the Authority is of the view that while interest rates may go up, but not to the levels (12% and 12.5%) projected by MIAL. In view of the interest rate ceiling considered in para 12.22, the Authority has proposed to consider the same ceiling for these loan facilities as well.

12.24. In respect of the debt, which has not been contracted yet and may need to be raised by MIAL in view of the gap in the means of finance, the Authority has tentatively decided to consider the cost of such debt on actuals subject to the ceiling of 11.5%.

Tentative Decision No16. Regarding cost of debt (for years 2012-13 and 2013-14)

16.a. **The Authority tentatively decided to consider the actual cost of Rupee Term Loan, paid by MIAL for the years 2009-10, 2010-11 and 2011-12. As regards the cost of debt for the period 2012-13 to 2013-14, the Authority tentatively decided to consider the actual cost incurred (weighted average rate of interest for the term loan, which has been certified by auditors of MIAL at 10.09%) by MIAL for the years 2009-10, 2010-11 and 2011-12 as the cost of debt for the years 2012-13 and 2013-14.**

Truing Up: 3. **Correction / Truing up for Tentative Decision No16**

3.a. The Authority further tentatively decided to true-up the cost of debt for the current control period with actual values (determined as weighted average rate of interest for the individual tranches of loan drawn within the control period) subject to the ceiling of 11.5% for individual tranches of loan.

12.25. In view of the above, Cost of Debt (R_d) for the loans availed by MIAL, works out as under:

Table 53: Cost of debt as considered by the Authority

Particulars	FY 10	FY 11	FY 12	FY 13	FY 14
Outstanding debt – In Rs. Cr.	2,021	2,947	4,548	4,231	4,231
Cost of Debt - %	10.20%	9.79%	10.13%	10.09%	10.09%

12.26. The impact of considering the future cost of debt as proposed by the Authority on the 'X' factor has been analysed as under:

Table 54: Sensitivity – Impact on X factor from future cost of debt

Parameter	X Factor as per the Base Model	X Factor after change in assumptions
Not considering upward revision proposed by MIAL (50 basis points) in future cost of debt for the present	(-)873.36%	(-)857.07%

13. Cost of Refundable Security Deposits

13.1. MIAL, in their initial submission, have projected Rs. 1000 Crores as Real Estate security deposits. These Real Estate deposits have been considered as part of Equity. In the initial tariff filling, the Real Estate security deposits have been projected to be realised in two installments of Rs 700 crs and Rs 300 crs in FY 12 and FY 13 respectively.

13.2. MIAL, vide their submission dated 26.06.2012, further submitted that there has not been any realisation of Real Estate security deposits in FY 12. Accordingly MIAL submitted revised schedule of real estate security deposits, which envisages realisation of Rs 220.75 crs, Rs 435.09 crs and Rs 344.16 crs in FY 13, FY14 and FY15 respectively keeping the total amount same as of Rs 1,000 crs.

13.3. MIAL, vide their submission dated 24.07.2012, submitted that,

> *"MIAL had earlier envisaged to generate Security Deposit though Real Estate Monetization of Rs. 700 Crores in FY 12 and Rs. 300 Crores in FY 13 respectively based on assumption that 22.33 acres and 12.78 acres of land would be available for monetization in FY 12 and FY 13 respectively.*
>
> *However due to ongoing Airport Development works and non-availability of alternate land most of these lands were to be put to temporary use for the purpose of Project Development and therefore till FY 12, no land was available for Real Estate development. Similarly, parcel of land considered earlier at AAI colony at Sahar Road for Real Estate Monetization could not be monetized pending vacation of colony by the AAI Employees. In addition to the above, MIAL has been awaiting necessary clearances from MMRDA for Development Plan for more than 2 years.*
>
> *MIAL had to revise its Real Estate Monetization forecast considering availability of clear land and prevailing market scenario………..."*

13.4. MIAL, in the same letter, submitted that as per OMDA and SSA, revenues from other than Revenue Share Assets (Non Transfer Asset) are not to be used for cross subsidy. MIAL further submitted assigning zero cost for such deposits disregard their economic significance and intrinsic cost and in effect tantamount to providing 100% cross subsidy in tariff determination when zero cross subsidy is envisaged in concession documents.

13.5. MIAL submitted that the refundable real estate security deposits (RSD), totally amounting to Rs. 1,000 crores, which it used for financing the project, should be treated as part of equity.

Observations on Refundable Security Deposits

13.6. Above submission of MIAL has been examined. It is observed that while Equity is not defined under the SSA, OMDA defines equity as under:

> *" **'Equity'** shall mean the paid-up share (equity and preference) capital of the JVC and shall include any Sub-ordinate Debt advanced by shareholders of the JVC to the JVC, provided that the Lenders' or their agent classifies such Sub-ordinate Debt as equity and conveys the same by a written notice to the AAI; provided however that notwithstanding the foregoing, any amounts that have been infused in the JVC as paid-up share capital or Subordinate Debt would not be classified as 'Equity' to the extent that such amount do not related to Transfer Assets."*

13.7. It is to be noted that the above definition is exhaustive in nature and not inclusive. Therefore, only the items specifically stated therein can be considered as "equity" and it may not be permissible to include any other items therein.

13.8. Further, the Authority is of the view that MIAL may receive this amount as interest-free security deposit. In view of the nature of transaction involved, the amount would be received by MIAL as a corporate entity. As such, with reference to the definition of Equity under OMDA, such amount is neither paid-up share capital nor subordinate debt advanced by shareholders of MIAL to MIAL.

13.9. Further, the Authority has noted from MIAL submissions that they have not been able to raise deposits as part of RSD as yet and the cost of the same is not known at present to the Authority. In absence of any factual evidence towards cost of RSD, the Authority is inclined to consider the cost of RSD at present as zero.

Tentative Decision No17. Regarding Refundable Security Deposits (RSD)

17.a. **The Authority tentatively decided to consider RSD at zero cost for the present.**

13.10. The impact of considering a 0% cost of the RSD on the 'X' factor is analysed as under:

Table 55: Sensitivity – Impact on X factor from considering RSD at zero cost

Parameter	X Factor as per the Base Model	X Factor after change in assumptions
Cost of RSD at 0%	-873.36%	-812.16%

14. Cost of Equity

14.1. MIAL, vide their submission dated 23.11.2011, submitted that the total equity being infused as part of financing the project capital expenditure of Rs 12,380 crs comprises the following components:

- paid-up capital of Rs 1,200 crs,
- internal accruals projected to be Rs 2473 crs and
- real estate security deposits projected to be Rs 1,000 crs.

14.2. MIAL submitted auditor certificates certifying amount of equity invested in the project. The year wise equity infused in the project by MIAL as certified by the auditor certificates is as under:

Table 56: Equity infused by MIAL certified by MIAL's Auditor

In Rs. Crore	FY 07	FY 08	FY 09	FY 10	FY 11	FY 12
Equity infused by MIAL annually	200	-	200	200	200	400

14.3. MIAL, in their submission dated 11.10.2011, have submitted the following on cost of equity:

" The Cost of Equity for CSIA has been taken on the basis of Report prepared by KPMG........ wherein Cost of Equity has been computed based on CAPM formula as given below:

$Re = Rf + \beta^{*} (Rm - Rf)$

Where: Rf = the current return on risk-free rate

Rm = the expected average return of the market

(Rm -Rf) = the average risk premium above the risk-free rate that a "market" portfolio of assets is earning

β = the beta factor, being the measure of the systematic risk of a particular asset relative to the risk of a portfolio of all risky assets

MIAL submits that it is relying on the analysis done by KPMG for Cost of Equity. KPMG has arrived at Cost of Equity of 24.17% for CSIA, which has been considered as 24.2% for WACC calculation. For details, enclosed *report of KPMG may kindly be referred. The cost of Equity for CSIA has been worked out as follows:*

Cost of Equity (Re) Parameter	*Value*
Risk free rate -10 year benchmark government bond yield	*8.428%*
Beta for Infrastructure companies	*1.596*
Market risk premium	*9.863%*
Cost of Equity (Re)	*24.2%*

."

14.4. Further vide their submission dated 23.11.2011, MIAL provided the bases / reasons for choosing the components considered in the calculation of cost of equity.

14.5. In respect of Risk Free Rate, MIAL submitted as under:

"…………….the reasons for choosing yield on 10 years Government Bonds as Risk Free Rate and source of data used. In this regard it is submitted that sovereign bonds are considered to come closest to a risk-free investment. They satisfy two basic conditions to qualify as risk-free:

Absence of default risk

No reinvestment risk – In order for an investment to fetch a return that is exactly equal to the expected return for a given time horizon, the rate of return for that risk free investment needs to remain unchanged throughout that period. For this reason, treasury bills which have a maturity period of less than a year are not considered. The investment horizon of T bills is much shorter than the investment horizon in case of an airport. So, although they are risk-free investments, they fail to eliminate the reinvestment risk as yields of such instruments are unlikely to remain the same for the said period.

Accordingly, the yield on government bond securities with long-term maturity is a preferred option for estimating the risk-free rate. MIAL have considered yield on 10-year GOI securities as at the calculation date as the risk-free rate, over bonds with different maturity periods, as a benchmark risk-free rate for two key reasons. First, the price of the 10 year bond is less *sensitive to unexpected change in inflation compared to the 30-year bond. Second, the trading volumes of 10 years bond are higher compared to the trading volumes of longer tenure bonds and hence the liquidity premium built into 10-year rates is generally lower compared to that of 30-year bonds. Our methodology is in line with the ones followed by major airports around the world, e.g. Dublin international airport uses yields on long-term deflated German government bond to estimate the risk-free rate."*

14.6. In respect of Market Rate of Return, MIAL submitted as under:

"……MIAL have used the 10 year CAGR on 90 days moving average of the BSE Sensex value as the market rate of return (Rm). The 10 year time frame corresponds to the time period which is a decade after the onset of liberalization (91) of the Indian economy. Varma and Barua (IIM Ahmedabad) in their paper [Varma, Jayanth R, Samir K Barua, "The First Cut Estimate of the Equity Risk Premia in India"] have also emphasized the fact that structural changes have taken place in the Indian economy during the decades of '80s and '90s and the characteristics of the economy are markedly different as compared to periods preceding it. However, in order to provide for sufficient time period, for development and ripening of the economy and the markets post the structural changes, the 10 year time frame (2001-11) has been used. The 90 day moving average instead of a daily average is used so that day-to-day volatility of the markets is eliminated while calculating the return. Further, as the half-yearly or yearly moving average may have large deviations from the market trend due to averaging over larger period, they have not been used. 10 year CAGR of 90 days moving average, rather than arithmetic or geometric mean of annual growth rates in 90 days moving average has been used to eliminate the impact of cyclical variations in economy over a long horizon of 10 years.

The BSE Sensex represents free-float marked capitalization weighted index of 30 well established and financially sound companies in India and thus is a good proxy for the Indian markets. While a broader index (e.g. BSE- 500, Nifty) may include a wider portfolio of stocks in the market, given the *relative instability of some of the smaller stocks in these broader indices, Sensex is chosen as a more robust indicator of returns on a diversified matured market portfolio.*

Equity Risk Premium (ERP) has, therefore been computed as Rm – Rf."

14.7. In respect of selection of airports from emerging markets for computing Beta, MIAL submitted as under:

"In the absence of any pure play publicly listed airport in India that can be used to estimate the beta for airport business in India, betas of listed airport operators in the emerging markets have been considered as a proxy for the Indian airport operators. For selecting listed international airport operators only from countries with emerging markets, their semblance to Indian airports on the following factors has been considered:

- *Economic profile*
- *Operating environment*
- *Opportunities and constraints*
- *Financial position"*

14.8. MIAL submitted the information on definition of "emerging markets" and "less economic developed countries" and submitted that India is comparable to China, Thailand, Indonesia etc and hence airports in these countries have been used to arrive at the beta value for the Indian scenario. MIAL also provided the equity beta for airports across the globe which included developed countries having similar passenger traffic for sake of comparison. The same is reproduced below:

S No	*Airport/Operator*	*Passenger Capacity in Mn*	*5 Years Beta*
1.	*Kuala Lumpur International Airport/Malaysia Airports Holdings*	*34.08*	*0.848*
2.	*Shenzhen International Airport/ Shenzhen Airport Company Ltd.*	*26.71*	*0.861*
3.	*Auckland Airport*	*13.20 (New Zealand)*	*1.041 (New Zealand)*
4.	*Australia*	*27.73 (Melbourne) 35.99 (Sydney)*	*0.623*
5.	*Flughafen Wien AG*	*19.7*	*0.822 (Vienna)*
6.	*Flughafen Munchen AG*	*34.7*	*0.860*

S No	Airport/Operator	Passenger Capacity in Mn	5 Years Beta
			(Munich)
7.	*Japan Airport Terminal*	*64.07*	*0.779*
8.	*Xiamen International Airport Co. Ltd, China operates 3 airports*	*13.2 (Gaoqui) 6.5 (Shuzhou Changli)*	*0.742*
9.	*Fraport, Germany*	*53.00*	*0.898*
10.	*Flughafen Zuerich, Switzerland*	*21.92*	*0.763*

14.9. Based on the table above, MIAL submitted that

"It may be seen that 5 year beta for these airports is close to the range of 0.89 to 1.12 for chosen airports in emerging markets by MIAL. Even for developed countries the beta is not very low. It is, however, pointed out that Traffic risk, while being a significant risk, is only one of many business risks that an airport operator faces. While comparing airports with similar traffic profile is preferable, airports with lower traffic levels can exhibit a similar risk profile (beta) as airports with higher traffic, if the underlying business and economic environment are similar. Further, International traffic is not location neutral. International air travel is influenced by factors such as business leisure and personal needs as well as the prevailing political, economic and security environment of the country. Even though airports may have similar international traffic volumes and passengers profiles, volatility of demand is likely to be different for different airports based on the strength of underlying demand drivers and risks. For example, in a global recession, the impact on international air traffic will be different in different economies. Comparing beta of airports with similar international traffic profile may, therefore, not be the right approach. Further, this approach ignores the impact of volatility in domestic demand."

14.10. In respect of taking different debt / equity ratios during un-levering and re-levering of Beta, MIAL stated that

"The beta of a stock (or business) is determined by three factors- (1) business risk, (2) operating leverage and (3) financial leverage. (1) Business

risk means the more sensitive a business is to market conditions, the higher the risk with respect to the market and hence higher is its beta. (2) Operating leverage refers to the variability in earnings for an investor due to fixed cost vs. variable cost split of the cost structure of the business. As for (3) financial leverage, all things remaining equal, an increase in financial leverage will increase the beta as the variance in net earnings of investors increase with higher obligated payments to the lenders. Since financial leverage impacts the beta, it becomes imperative to un-lever the (equity) beta determined for publicly traded stocks to arrive at the (asset) beta which reflect the risk only due to business risk and operating leverage. Hence, by un-levering the equity beta with D/E ratio the normalized asset beta is obtained which reflects the business and operating risk for that industry. To arrive at equity beta of a particular stock in that industry, the asset beta (considered as proxy for business in a different country) needs to be re-levered with financial leverage of that particular business to capture additional riskiness due to financial leverage. Since un-levering and re-levering are done for similar stocks/businesses but with different financials; the financial leverage and hence, equity beta for both is bound to be different.

Further, the Indian private airport operators have a significantly high debt to equity ratio compared to the listed airports in the emerging markets. The median debt equity ratio for the airports in emerging markets is only ~0.15. Such a debt equity structure translates into further fixed cash outflows in the form of huge interest and repayments, which translates to a longer gestation period to equity investors before any dividends are paid. Further, CSIA faces unique risks as have been brought out by KPMG in their Report on cost of Equity submitted earlier with MYTP. Hence asset beta of 0.85, which is slightly higher than median asset beta of 0.80, has been considered."

14.11. On the issue of considering market capitalisation while de-levering and book value of equity while re-levering of Beta, MIAL submitted as under:

"As CAPM is a prospective model as opposed to a retrospective model, it attempts to measure the return on capital in the company going forward. Since the inception of a business, changes in capabilities, value proposition, business environment, competitiveness, etc. of the underlying asset or business are likely to happen. Consequently, the present valuation of the stock is a better indicator of the worth of the equity. Therefore, the relative risk due to obligated payments to lenders may be more appropriately reflected using the Debt-Equity Ratio (DER) based on market value than on book value. Hence, market capitalization has been used for de-levering equity beta.

The market value of equity is ideally the one based on the price of actively traded shares of a listed entity. Since MIAL is a Private Limited Company its market value is not available. Clause of 2.5 of OMDA prohibits transfer of equity shares upto initial 5 years and puts restrictions on transfer of shares upto 7th year and hence no realistic market value of equity can be determined. Since these restrictions are within the present control period starting from 4th year, realistic estimation of market value of equity is not possible, Hence, projected value of DER in books, which is the best available substitute for market value of equity and debt, has been used to re-lever the beta. This approach is also preferred since it is important to be consistent in using the same DER both for re-levering the beta and for calculating the costs of debt and equity for calculating the FRoR."

14.12. MIAL, vide their additional submission dated 24.07.2012, have further submitted that there is no significant difference between asset beta of airports calculated based on either book value or market value of equity. MIAL stated that

"No significant difference noticed between asset beta of the Airports calculated based on either book value or market value of equity. We have primarily calculated asset beta for CSIA, Mumbai by both the methods as shown below, which clearly shows that there is no significant change in value of beta as shown below:

	Submitted in MYTP (for levering market value used, for	*Revised (Book value of Equity used for both*

	relevering book value used)	*levering and relevering)*
Rf	*8.43%*	*8.43%*
Rm	*18.29%*	*18.29%*
Rm-Rf	*9.86%*	*9.86%*
D:E	*1.3*	*1.3*
Tax	*32.45*	*32.45*
Beta	*0.85*	*0.79*
Levered Beta	*1.60*	*1.48*
CoE	*24.17*	*23.06*

"

14.13. Further, MIAL also proposed an inclusion of an additional factor in the calculation of cost of equity using CAPM model, wherein they have submitted as under:

"MIAL currently faces unique situation of severe capacity constraint, working effectively almost at its full capacity. There is no possibility of significantly increased capacity within this control period. On the other hand, MIAL business is susceptible to significant downside risk due to its dependency on the airline business which is exposed to significant volatilities and frequent negative shocks. This combination of circumstances makes MIAL quite different from other regulated entities.

The capacity constraint has become increasingly onerous and since a response of raising prices is prevented by regulation, the upside is limited.

In view of the additional downside risk as mentioned above an addition should be made to the Cost of Equity in the form of lamda.

Heathrow Airport, London which is also experiencing the similar constrained scenario of MIAL, has in their submission to CAA in September 2011 has requested for increased cost of equity which is agreed in-principal by CAA.

Cost of Equity by CAPM model

$K_e= R_f+B(R_m-R_f)+ \quad \lambda_i*CRP$

λ_i ** CRP=Co- skewness coefficient*Co-skewness Risk premium*

Where λ_i *is the co-skewness coefficient for share I, and CRP is the market-wide co-skewness risk premium (which is negative indicating that negative co-skewness attracts a higher return)."*

Observations on Cost of Equity

14.14. The Authority had, in its Consultation Paper No. 03/2009-10 dated 26.02.2010 (*on the Regulatory Philosophy and Approach in Economic Regulation of Airports and Air Navigation Services*), stated that it recognizes that the assessment of the cost of equity will be highly material to the Authority's reviews of airport charges. The Authority considers that the CAPM is the most appropriate approach for determining the cost of equity. However, the CAPM approach will potentially result in a wide range of results, depending on assumptions made around different components of CAPM and where the range of results derived from CAPM is considerable, the Authority will consider the application, where appropriate, of benchmarks for the cost of equity, most notably from other regulatory estimates, but recognising the differences in risk profiles between sectors. In estimating the cost of equity the Authority will also take account:

14.14.1. the issues reported in regulatory consultation papers, responses to those papers and decision papers supporting those decisions;

14.14.2. differences in the structure or operation of the respective regulatory regimes compared with that operated by the Authority;

14.14.3. any differences in the commercial environments of the respective airports compared with those in India;

14.14.4. decisions relating to cost of equity assessments made by other regulators in India and comparable jurisdictions;

14.14.5. other aspects of the overall regulatory regime (e.g. forecasting error correction term etc.);

14.14.6. any other relevant academic or other studies and, in particular;

14.14.7. responses to the Authority consultation by airports, users and other interested parties.

14.15. The Authority has in the past noted that none of the private airports are listed companies. Therefore, the equity betas for these companies are not available thereby making the task of assessing the cost of equity difficult. In this background, the Authority had requested the National Institute of Public Finance and Policy (NIPFP), New Delhi to estimate the expected cost of equity for the private airports at Delhi, Mumbai, Hyderabad, Bangalore and Cochin.

14.16. Accordingly NIPFP gave its report in respect of DIAL on 19.04.2012 on the methodology of cost of equity in respect of DIAL. This report is already annexed to the Authority's Order No 3/2012-13 dated 24.04.2012 (DIAL Tariff Determination Order). Thereafter NIPFP gave its report in respect of MIAL on 17.09.2012. This report is built on their earlier report on DIAL. The salient features of the Report submitted by NIPFP in respect of cost of equity for MIAL on 17.09.2012 are as under:

14.16.1. Keeping in view the Authority's decision, the CAPM has been used for estimating the cost of equity.

14.16.2. The Risk free rate (Rf) has been assessed as percentage (%) on the basis of arithmetic average of daily yields on 10-year Government of India bonds over the period from September 10, 2002 to September 10, 2012. The average yield of 10 year Government of India bonds during this time period was 7.25% and NIPFP has recommended to consider this as the risk free rate.

14.16.3. The Equity risk premium (Rm – Rf) has been assessed as percentage (%) taking into account the historical risk premium of 4.1% for the US markets (geometric average of premium for stocks over treasury bonds over the period of 1928-2010) and a default risk spread of 2% for India (given the local currency sovereign rating of Baa3). Thus the equity risk premium estimated by NIPFP is 6.1%. NIPFP noted in its report that given the negative outlook received by India recently, AERA may consider taking a slightly higher equity risk premium, but even if India's rating were to be downgraded by one notch, the equity risk premium will go up only by 0.4%.

14.16.4. NIPFP has proposed that AERA could consider an asset beta of 0.54 for MIAL based on information on asset beta in respect of 29 foreign airport companies.

14.16.5. The asset beta of 0.54 has been re-levered on the basis of normative debt/equity ratio of 1.5:1 to estimate the equity beta of 1.08.

14.16.6. The cost of equity for MIAL have been estimated at 13.84% (equity beta=1.08, if asset beta = 0.54)

14.17. The Authority observes that, NIPFP in their DIAL report dated 19.04.2012, had estimated the asset beta from a list of 29 airport companies in the range of 0.58 - 0.61. It also indicated that after adjusting for risk mitigating factors the asset beta should be around 0.55 range and that AERA may consider any value in the range of 0.45 - 0.65.

14.18. NIPFP has now calculated the asset beta for MIAL at 0.59, which is close to what was calculated for DIAL. After considering certain risk mitigating factors, NIPFP has suggested taking a value of asset beta of 0.54.

14.19. The Authority has expressly mitigated volume risk through the mechanism of truing-up. Similarly it proposes to use the legislative instrument of user development Fee as a revenue enhancing measure to enable the Airport Operator earn the Target Revenue (which, in turn, depends on Fair Rate of Return on equity as well as other means of finance like debt, internal resource generation, refundable security deposits etc).

14.20. Further NIPFP while estimating the Cost of Equity for MIAL in its recent report have considered both Normative Debt Equity Ratio of 1.5:1 as well as market value-based debt – equity ratio (0.67) to relever the asset beta to arrive at the equity beta. The cost of equity under normative debt ratio as calculated by NIPFP is 13.84% and that calculated based on the debt-equity ratio obtained on the basis of market value of equity comes to 12.01%. It is to be noted that NIPFP has taken total debt at Rs 5636.78 crores comprising Rs 4192.09 crores of Non-current liabilities and Rs 1444.69 crores of current liabilities (as available in the balance sheet of MIAL as on 31.03.2012). It is also to be noted that the market value of equity calculated at Rs 8400 crores is based on the purchase by GVK Power and Infrastructure Limited of 13.5% equity stake in MIAL from Bid Services Division (Mauritius) Limited for Rs 1134 crores.

14.21. NIPFP has presented another variant of market-value based debt-equity ratio, where they have considered only the long term debt (at Rs 4,231 crores) and not the total liabilities of MIAL (at Rs 5,636.78 crores). Under this approach, the debt-equity ratio works out to 0.50 and accordingly cost of equity has been estimated to Rs 11.64%.

14.22. The Authority also notes that MIAL have in their submissions stated that "……*No significant difference noticed between asset beta of the Airports calculated based on either book value or market value of equity." (Refer para 14.12 above).* MIAL have not furnished details of market valuation of their equity.

14.23. It is observed that the estimation of cost of equity (RoE) is a technical matter and requires expert assessment and computation. NIPFP is a centre for advanced applied research in public finance and public policy. It is an autonomous society which is widely believed to be used as a think tank by the Ministry of Finance and other Government departments/ agencies. NIPFP report, dated 19.04.2012, also discusses the reasons for differences in the RoE estimates suggested in the reports prepared at the instance of the airport operators. NIPFP initial report dated 13.12.2011, which inter alia, discusses various elements of CAPM as well as risk mitigating factors is annexed (**Annexure – V** along with updated report on MIAL dated 17.09.2012).

14.24. As far as the issue of co-skewness is concerned, the Authority has noted the observations of Professor Ian Cooper of London Business School dated 13.09.2011, where Professor Cooper has stated that,

> *"the upside potential of Heathrow is limited by capacity constraint, whereas there is significant downside risks, risk profile giving rise to negative skewness."*

14.25. Further, the downward risk of traffic is proposed to be completely eliminated unlike CAA airports. Furthermore the instrument of UDF as revenue enhancing measures is used by the Authority to enable the airport operator to get fair rate of return. The Authority, therefore, feels that this concern is not relevant for MIAL.

14.26. During several discussions with the merchant bankers, regulated entities, mutual funds etc., it has been suggested that the Authority should benchmark its proposed return on equity with the returns given by other sectoral regulators. Otherwise, the airport sector will be perceived as less attractive for investment, which will not be in the long term interest of the sector. In this background, an attempt has been made to review the RoE in other sectors.

14.27. Central Electricity Regulatory Commission (CERC), in its Terms and Conditions of Tariff Regulations for 2009-14 issued on 20.01.2009, vide regulation 15, computes the RoE at the base rate of 15.5% in the manner indicated therein. The Authority, has noted that in its regulatory framework the Corporate Tax is being allowed as a cost pass through and the RoE on CAPM.

14.28. It is understood that State Electricity Regulatory Commissions normally consider 16% as cost of equity in respect of distribution companies.

14.29. In the Port sector, the Tariff Authority of Major Ports (TAMP) is understood to be using 16% as return on equity. However, the model of tariff determination of TAMP is understood to be different – TAMP finalizes and announces the tariff upfront and then bids out with revenue share as the decision or selection parameter.

14.30. In case of National Highways, the NHAI is also understood to determine the toll upfront. In a recent report, a Committee headed by Shri B.K. Chaturvedi, Member, Planning Commission has stated that Equity IRR of upto 18% may be acceptable for certain types of projects.

14.31. Another issue which has been raised from time to time is that at the time of restructuring of Delhi and Mumbai airports a "Bid WACC" of 11.6% had been considered. As per a clarification issued at the relevant time this was based on an assumption of post tax cost of equity and debt of 22.8% and 6.0%, respectively. Therefore, the bidders were "assured" of a RoE of 22.8%.

14.32. This matter has been discussed earlier in the section pertaining to hypothetical RAB. As has been brought out therein, it is evident from the clarification that WACC of 11.6% given in the RFP was only "indicative" and for the purpose of ensuring consistency between the Business Plans submitted by the Bidders as part of their offer. Therefore, there appears to be no substance in the argument that a WACC of 11.6% and RoE of 22.8% was assured to the bidders. As such, treatment of 11.6% as "Bid WACC" is completely misplaced and incorrect. Briefly, the WACC of 11.6% was only indicative for comparison purposes and cannot be construed as assured return by any stretch of imagination.

14.33. The MoCA, vide letter dated No.AV.24032/037/2011-AD dated 12.03.2012, forwarded a report of M/s. SBI Capital Markets Ltd. (SBI CAPS) titled, *"Fair Rate of Return on equity for Indian Airport Sector"* on the return on Equity for airport sector in India. AAI had got a study conducted through SBI CAPS which had opined a return on the Equity in the range of 18.5% to 20.5% would be reasonable for airport sector in India. The Authority has discussed the SBI CAPS report extensively in its Delhi Tariff Determination Order dated 24.04.2012 and has provided reasons for not considering the return on equity in the range of 18.5% to 20.5%.

14.34. In view of its significance, the Authority has given a detailed consideration to the issue of cost of equity at hand. It has also noted the range of estimates of RoE as calculated by NIPFP in accordance with the CAPM framework adopted by the Authority.

14.35. The Authority noted that the range of cost of equity, calculated by NIPFP, falls between 11.64% - 13.84%. It also noted that if the equity risk premium is increased to 7.5% (from 6.1% calculated by NIPFP), the cost of equity comes to 15.37% for an asset beta of 0.54. If asset beta of MIAL is taken at 0.59 (i.e. without considering risk mitigating factors), the cost of equity comes to around 16% for equity risk premium of 7.5%. The Authority therefore observes that its methodology and estimation of cost of equity appear to be sufficiently robust.

14.36. In the light of the above and considering that in the current i.e., first control period, the Authority would be inclined to give some allowance for the uncertainties in estimation of different parameters, the Authority, proposes to consider the Cost of Equity at 16%. The Authority feels that the rate proposed is reasonable for the current control period and provides for sufficiently generous allowance for such uncertainty in estimation.

14.37. The sensitivity has accordingly been considered for Cost of Equity at 16% and is presented in the Table 57 below. This sensitivity is limited to the equity (including RSD) being considered at 16% instead of 24.2%, as proposed by MIAL.

Table 57: Sensitivity - Impact on X Factor from Cost of Equity

Cost of Equity @	X Factor as per MIAL submission	X Factor after change in assumptions
16%	-873.36%	-623.30%

Tentative Decision No18. Regarding Cost of Equity

18.a. **The Authority tentatively decided that the de-levering of the equity beta of the comparators will be in accordance with the market capitalisation figures to arrive at the asset betas (as is advised by NIPFP).**

18.b. **The Authority tentatively decided that the re-levering of the asset beta of MIAL will be at the notional Debt-Equity Ratio of 1.5:1 (as indicated by SBI Caps).**

18.c. **The Authority tentatively decided to adopt Return on Equity (post tax Cost of Equity) as 16% in the WACC calculation.**

Review of consideration of the Upfront Fee, paid by MIAL to AAI, as part of equity

14.38. MIAL submitted through auditor certificate that the upfront fee to AAI has been paid as below:

Table 58: Upfront Fee paid to AAI as certified by MIAL's Auditor

	FY 07	*FY 08*	*FY 09*	*FY 10*	*FY 11*	*FY 12*
Upfront Fee paid to AAI – In Rs. Crore	*150*	-	-	*3.85*	-	-

14.39. The Authority observed that paid-up capital of Rs 1,200 crs includes Rs 153.85 crs paid to AAI as upfront fee.

14.40. The SSA provides for no pass through for Upfront fee payable to AAI. As per Clause 3.1.1 of the SSA

"….the Upfront Fee and the Annual Fee paid/payable by the JVC to AAI under the OMDA shall not be included as part of costs for provision of aeronautical services and no pass through would be available in relation to the same."

The SSA further defines the regulatory base on which returns are admissible at the rate of WACC as:

"It is further clarified that the Upfront Fee and any pre-operative expenses incurred by the Successful Bidder towards bid preparation will not be allowed to be capitalised in the regulatory base."

14.41. In view of the above, Upfront fees incurred by MIAL appear to be inadmissible as equity and therefore should not be included as a part of Equity for the purpose of WACC determination.

Tentative Decision No19. Regarding consideration of Upfront fee paid by MIAL to AAI towards equity

19.a. **The Authority tentatively decided not to consider Upfront fee paid by MIAL to AAI towards equity share capital of MIAL.**

14.42. The impact of not considering AAI Upfront fee as part of Equity on the ’X’ factor is analysed as under:

Table 59: Sensitivity – Impact on X factor from not considering AAI Upfront fee as part of Equity

Parameter	X Factor as per the Base Model	X Factor after change in assumptions
Not considering AAI Upfront fee as part of Equity	-873.36%	-854.37%

15. Weighted Average Cost of Capital (WACC)

15.1. MIAL, in their initial submission dated 11.10.2011, made the following submission on the means of finance for the project:

"The means of finance for the project cost of Rs 12,380 Crores are considered as follows:

Components	*Contributions (In Rs. Cr.)*
Equity	
Paid Up Capital	*1,200*
Internal Accruals (Reserves)	*1,999*
Real Estate deposits (refundable)	*1,000*
*DF**	*3,950*
Debt	*4,231*
Total	*12,380*

**Note:*

1) The DF amount is the funding gap after using all other sources of Finance given above.

2) Includes Rs. 637 Crore collected so far. Amount collected is net of collection charges. DF is excluding service tax, if any.

The Operational Capital Expenditure and Retirement Compensation are considered to be funded through Internal Accruals."

15.2. MIAL further submitted their approach for determination of WACC for the MYTP:

"A fair rate of return would be allowed on the Regulatory Base defined under SSA. This would be a combination of Cost of Equity (Paid up Capital + Reserves + Real Estate Deposits) and Cost of Debt.

$WACC=g*R_d + (1-g)*R_e$

Where: g = Weighted Average Gearing for the control period

R_d = Weighted Average Pre-Tax Cost of Debt for the control period

T= Corporate Tax Rate

R_e = Post-Tax Cost of Equity."

15.3. MIAL also presented its estimation of cost of debt and cost of equity as follows:

"The weighted average cost of debt (Rd) for the current control period is 10.65%, computed from the outstanding debt and yearly average cost of debt."

15.4. The outstanding debt and yearly average cost of debt as submitted by MIAL, vide their initial submission dated 11.10.2011, is presented below:

Table 60: Cost of debt as submitted by MIAL in its initial submission

Particulars	FY 10	FY 11	FY 12	FY 13	FY 14
Outstanding debt – In Rs Cr	2,021	2,947	4,101	4,231	4,231
Cost of Debt - %	9.99%	10.09%	10.23%	10.83%	11.56%

"The Cost of Equity for CSIA has been taken on the basis of Report prepared by KPMG …….. wherein Cost of Equity has been computed based on CAPM formula as given below :

$R_e = Rf + ß * (Rm – Rf)$

Where : Rf = the current return on risk-free rate

Rm = the expected average return of the market

(Rm – Rf) = the average risk premium above the risk-free rate that a "market" portfolio of assets is earning.

ß = the beta factor, being the measure of the systematic risk of a particular asset relative to the risk of a portfolio of all risky assets.

MIAL submits that it is relying on the analysis done by KMPG for Cost of Equity. KPMG has arrived at Cost of Equity of 24.17% for CSIA, which has been considered as 24.2% for WACC calculation.………The cost of Equity for CSIA has been worked out by MIAL as follows:

Cost of Equity (Re)

Parameter	*Value*
Risk free rate- 10 year benchmark government bond yield	*8.428%*
Beta for Infrastructure companies	*1.596*
Market risk premium	*9.863%*
Cost of Equity (Re)	*24.2%*

"

15.5. MIAL, in their initial submission dated 11.10.2011, have also submitted their calculation of WACC as presented below:

"The weighted average Cost of Capital has been computed based on the following formula:

$WACC = \%D*R_d + \%E*R_e$

In Rs crs & %	*FY 10*	*FY 11*	*FY 12*	*FY 13*	*FY 14*
	Actual		*Projections*		
Total Capital employed (Net of DF)	*3,040*	*4,363*	*6,774*	*8,204*	*8,640*
Outstanding debt	*2,021*	*2,947*	*4,101*	*4,231*	*4,231*
Equity	*1,019*	*1,416*	*2,673*	*3,973*	*4,409*
Paid up capital	*600*	*800*	*1,000*	*1,200*	*1,200*
Internal Accruals	*419*	*616*	*973*	*1,773*	*2,209*
Real Estate Deposit (Refundable)	*-*	*-*	*700*	*1,000*	*1,000*
% Debt	*66.48%*	*67.54%*	*60.53%*	*51.57%*	*48.97%*
% Equity	*33.52%*	*32.46%*	*39.47%*	*48.43%*	*51.03%*
WACC	*14.75%*	*14.67%*	*15.74%*	*17.31%*	*18.01%*
Weighted Average Gearing					*56.51%*
Weighted Average Equity					*43.49%*
Cost of Debt	*9.99%*	*10.09%*	*10.23%*	*10.83%*	*11.56%*
Weighted Average Cost of Debt					*10.65%*
Cost of Equity					*24.20%*
Weighted Average Cost of Capital					*16.54%*

"

15.6. MIAL, vide their submission dated 23.11.2011, proposed a revised projection of the means of finance for the Project cost of Rs. 12,380 Crores on account of certain revision in some of their earlier assumptions including revision in the tariff applicability date from 01.12.2011 to 01.03.2012 and the levy of DF from 01.12.2011. In this regard, MIAL submitted as under:

"……the computations given below are based on the changes discussed above. However, in case Hon'ble Authority does not accept any of the above changes, it will have a corresponding impact on tariff increase, internal accruals and DF requirement etc. For example, as the project cost of Rs. 12380 Crore and funding from other sources (Rs. 6431 Crore) is fixed, the balance funding of Rs. 5949 Crore has to come from internal accrual

and DF. In case, internal accruals given here are reduced, DF has to be increased by corresponding amount so that both add up to Rs. 5949 Crore for meeting the funding requirement. As such, the computations and amounts given herein are required to be considered together and not in isolation or selective basis. Hon'ble Authority ¡s, therefore, requested to consider the above submissions in entirety."

Table 61: Revised means of finance (MIAL's submission dated 23.11.2011)

Components	Contributions (In Rs. Cr.)
Equity	
a. Paid Up Capital	1,200
b. Internal Accruals (Reserves)	2,473
c. Real Estate deposits (refundable)	1,000
Development Fee	3,476
Debt	4,231
Total	12,380

15.7. On account of the change in debt and equity percentages, MIAL revised the calculation of WACC. The revised value of WACC, as submitted by MIAL in the submission dated 23.11.2011, was 16.66%.

15.8. Further, vide their submission dated 26.06.2012, MIAL revised their calculation of WACC on account of incorporation of auditor certified numbers for FY 2012 and updation of traffic forecast. MIAL submitted the WACC of 15.94% in this submission.

15.9. MIAL submitted that since the internal accrual will depend upon the tariff hike being approved by the Authority and the date of levy of such hike, this means of finance will continue to be dynamic and accordingly the requirement of DF would need to be modified.

15.10. The Authority has taken tentative decisions on the cost of each component of WACC namely debt (refer para 12), equity (Refer para 14) and RSD (Refer para 13).

15.11. It may also be noted that the Authority defined Internal Resource Generation in a particular manner. In estimation of Internal Resource Generation, the Authority has taken into account the cash balance as of 31.03.2012 and the estimated depreciation for 2012-13 and 2013-14. Since the actual depreciation for these two years may possibly be different from the estimates, the Authority has separately proposed the truing-up of the same for the purposes of calculation of Internal Resource Generation. The method of the Authority of calculation of Internal Resource Generation is to enable clarity in calculation of its different components and keeping the contribution therefrom tractable.

15.12. It is also to be noted that retained earnings, which are nothing but profit after tax after adjustments as generally reflected in the appropriation accounts, is not taken into consideration while calculating the Internal Resource Generation. This is because entire retained earnings may or may not be deployed for the project and hence could not be taken as Internal Resource Generation for the means of finance for the project.

15.13. The Authority accordingly proposes to determine WACC for MIAL as follows:

Table 62: Determination of WACC for the current control period by the Authority

In Rs crs & %	*FY 10*	*FY 11*	*FY 12*	*FY 13*	*FY 14*
	Actual			*Projections*	
Outstanding debt	*2,021*	*2,947*	*4,548*	*4,231*	*4,231*
Paid up capital	*446*	*646*	*1,046*	*1,046*	*1,046*
Real Estate Deposit (Refundable)	*-*	*-*	*-*	*221*	*656*
% Debt	*81.91%*	*82.02%*	*81.30%*	*76.96%*	*71.31%*
% Equity	*18.09%*	*17.98%*	*18.70%*	*19.03%*	*17.63%*
% RSD	*-*	*-*	*-*	*4.02%*	*11.05%*
Weighted Average Debt					*77.88%*
Weighted Average Equity					*18.33%*
Weighted Average RSD					*3.80%*
Cost of Debt	*10.20%*	*9.79%*	*10.13%*	*10.09%*	*10.09%*
Weighted Average Cost of Debt					*10.06%*
Cost of Equity					*16.00%*
Cost of RSD					*0.00%*
Weighted Average Cost of Capital					*10.77%*

15.14. The Internal Resource Generation figures considered year-on-year are as shown in the table below:

Table 63: Internal Resource Generation in respect of which WACC return is proposed

In Rs crs & %	*FY 10*	*FY 11*	*FY 12*	*FY 13*	*FY 14*
	Actual			*Projections*	
Cash Balance			*645.26*		
Projected Depreciation on Aeronautical RAB				*183.97*	*322.03*
Cumulative Internal Resource Generation amount at the end of the year			*645.26*	*829.23*	*1,151.26*

15.15. Based on the Table 62 above, the Authority proposes to consider WACC of 10.77% for MIAL for the current control period.

15.16. In view of the Authority's tentative decision to provide for WACC as return on Internal Resource Generation (Tentative Decision No3), the Authority proposes to consider 10.77% as return on the Internal Resource Generation for the current control period.

15.17. The Authority noted that the project is likely to be completed by August 2014, which is beyond the current control period and accordingly, means of finance towards the entire project cost have not been required to be drawn / called upon as yet. Further, as discussed in Tentative Decision No6 the Authority has tentatively decided not to address a certain gap in the means of finance. Accordingly, the cost of such means of finance, which have not been drawn / called upon as yet, is not known to the Authority. Such means of finance include (a) the term loan, which has not been drawn yet, (b) Refundable Security Deposits, which have not been contracted yet and (c) the debt, which may need to be arranged in order to meet the gap in the means of finance. The Authority has considered truing-up cost of such means of finance in respective sections (true-up of cost of debt in Truing Up: 3, true-up of cost of RSD in Tentative Decision No17). The Authority noted that since the components of WACC are being trued-up, the WACC would also merit truing-up to that extent.

Tentative Decision No20. Regarding WACC

20.a. **The Authority tentatively decided that WACC for the purposes of calculating Target Revenue will be calculated based on proportion of different components of the means of finance (excluding Internal Resource Generation and DF) and accordingly calculates WACC at 10.77% (based on 16% cost of equity) for the purpose of tariff determination during the current control period.**

Truing Up: 4. **Correction / Truing up for Tentative Decision No20**

4.a. The Authority tentatively decided that WACC will be trued up on account of:

i) Adjustments to cost of debt, if any, subject to Tentative Decision No16 and Truing Up: 3

ii) Cost of funds for bridging the gap in the means of finance of Rs 819.05 crores, after review by the Authority

16. Depreciation

16.1. MIAL submitted that as per SSA, rates applicable under Schedule XIV of the Companies Act are to be applied on the value of the Assets.

16.2. In the current filing, MIAL have calculated depreciation of assets to be commissioned or disposed off during a Regulatory Period, pro-rata considering that such assets have been commissioned or disposed of half way through the Tariff Year i.e. on average RAB values

Observations on Depreciation

16.3. According to Schedule 1 of the SSA:

> *"D = depreciation calculated in the manner as prescribed in Schedule XIV of the Indian Companies Act, 1956. In the event, the depreciation rates for certain assets are not available in the aforesaid Act, then the depreciation rates as provided in the Income Tax Act for such asset as converted to straight line method from the written down value method will be considered. In the event, such rates are not available in either of the Acts then depreciation rates as per generally accepted Indian accounting standards may be considered."*

16.4. According to Schedule XIV of the Indian Companies Act, 1956:

> *"Where, during any financial year, any addition has been made to any asset, or where any asset has been sold, discarded, demolished or destroyed, the depreciation on such assets shall be calculated on a pro rata basis from the date of such addition or, as the case may be, up to the date on which such asset has been sold, discarded, demolished or destroyed."*

16.5. The Authority, vide its Airport Order and Airport Guidelines, envisaged that:

> *"For projecting depreciation on forecast of assets to be commissioned or disposed off during a Control Period, it shall be assumed that such assets have been commissioned or disposed of half way through the Tariff Year and depreciation related to such assets shall be calculated pro-rata."*

16.6. In other words, the Authority has taken a view that depreciation of assets to be commissioned or disposed off during a Regulatory Period should be calculated pro-rata considering that such assets have been commissioned or disposed of half way through the Tariff Year.

16.7. During the course of the discussions, MIAL explained that as per MIAL's accounting procedure, DF is considered in the nature of "Grants". Hence DF-funded assets are removed from the total assets in a year and depreciation for the purpose of Books of MIAL is calculated on this Net Assets.

16.8. It was observed that the depreciation values that have been plugged into the financial model were hard-coded numbers. MIAL clarified that for calculating the depreciation on aero assets for historic years in the Tariff Model, total depreciation in a year is reduced by the value of amortisation of AAI Equity in that year and then this net value is multiplied by the aero/ non-aero-asset-segregation-ratio. MIAL further explained that this aero/ non-aero-asset-segregation-ratio was derived by KPMG in their report considering on a base of total assets, which included DF-funded assets.

16.9. The Authority observed that this ratio has been calculated for a base, which includes DF-funded assets, therefore it is not considered to be appropriate to apply this ratio on a depreciation number, which excludes depreciation on DF-funded assets.

16.10. In this regard, MIAL was asked to submit a clarification. MIAL, vide their submission dated 16.08.2012, clarified that in the current filling, while calculating Depreciation on Aero Assets, Aero assets ratio calculated by dividing aero assets (including assets funded through DF) to total assets (including assets funded through DF) has been applied to total depreciation (excluding Upfront Fee amortisation). MIAL further stated that since total depreciation to which Aero assets ratio is applied (excluding upfront fee amortisation) does not include depreciation on DF funded assets, therefore the Aero asset ratio should be applied on total depreciation (excluding Upfront Fee amortisation) including Depreciation on DF funded assets.

16.11. The Authority observed that Depreciation for any year for Operational Capex assets was calculated by adding depreciation upto previous year to the depreciation over additions for the year. It was highlighted to the MIAL that Depreciation should be calculated based on closing balance of operational capex of previous year and additions in operational capex during the year. MIAL, vide their submission dated 16.08.2012, agreed to this methodology of calculating depreciation.

Depreciation of Hypothetical RAB

16.12. MIAL, in their submission dated 23.11.2011, submitted that *"the HRB once becomes part of the overall regulatory base, the same needs to be depreciated like any other physical fixed assets."* Accordingly depreciation for Hypothetical RAB was considered at the weighted average rate of other assets.

16.13. However, the issue that arises in depreciation of Hypothetical RAB is the rate of depreciation which should be applied to Hypothetical RAB. In this respect following options appear to be available:

16.13.1. The Authority observed that Hypothetical Regulatory Base becomes part of Regulatory Base and as per SSA, Regulatory Base pertains to Aeronautical Assets. A tariff yearwise average depreciation rate for aeronautical assets may be applied as proposed by MIAL which works out to the hypothetical RAB getting fully depreciated in about 25 years; or

16.13.2. Hypothetical RAB is being determined at the commencement of fourth year leaving a remainder of 27 years of the "Term", as specified in OMDA. Therefore, it could be depreciated based on straight line method for a period of 27 years.

16.14. The Authority finds that the option of depreciating the hypothetical RAB at the tariff year-wise average depreciation rate for aeronautical assets may be most appropriate for the reason that hypothetical RAB having got subsumed in Regulatory Base should be depreciated at the rate at which other components of Regulatory Base depreciate. Accordingly, the Authority proposes to depreciate the hypothetical RAB at the tariff year-wise average depreciation rate for aeronautical assets.

16.15. This aspect of rate of depreciation for hypothetical RAB was discussed with MIAL, wherein MIAL agreed to the methodology proposed by the Authority and the tariff model was changed to incorporate the same, that is, to calculate depreciation of Hypothetical RAB at the tariff year-wise average depreciation rate of aeronautical assets.

16.16. If the Hypothetical RAB were to be depreciated (based on straight line method) over the period of 27 years, the impact on X factor would be as under:

Table 64: Sensitivity - Impact on X Factor from Depreciation of Hypothetical RAB based on straight line method for a period of 27 years

Parameter	X Factor as per the Base Model	X Factor after change in assumptions
Depreciation based on straight line method for a period of 27 years	-873.36%	-866.10%

17. Operating Expenses

Operation and Maintenance Costs

17.1. MIAL vide their submission dated 11.10.2011, submitted that the operation and maintenance costs (O&M) for the years 2009-10 and 2010-11 have been taken on actual basis and have been projected based on cost drivers such as inflation, increase in asset base, increase in manpower etc. considering FY 2010-11 as the base year. The inflationary increases have been linked to past 5 years CAGR of Consumer Price Index for Industrial Workers (CPI-IW) as specified in Schedule I of SSA, which is 8.94%.

17.2. MIAL further stated that CSIA is providing both Aeronautical and Non-Aeronautical services and the segregation of O&M cost is done based on the study carried out by KPMG for FY 2009-10 and FY 2010-11.

17.3. The proportion of Aeronautical cost under various heads of O&M Cost to the total O&M cost for the control period, as submitted by MIAL in their submission dated 11.10.2011, is reproduced below:

Table 65: Proportion of Aeronautical cost under various heads of O&M Cost to the total O&M cost

Cost Item/FY	FY10	FY11	FY12	FY13	FY14
	Actuals		Projections		
Employee Cost	86%	82%	82%	82%	82%
Operation Support Cost to AAI	100%	0%	0%	0%	0%
Electricity, Water and Fuel Costs (net of recoveries)	100%	99%	99%	99%	99%
Repair & Maintenance Cost	94%	94%	94%	94%	94%
Rents, Rates & Taxes (net of recoveries)	100%	100%	100%	100%	100%
Advertising Cost	99%	99%	99%	99%	99%
Administrative Costs	90%	85%	85%	85%	85%
Airport Operator's Fees	100%	100%	100%	100%	100%
Insurance Cost	91%	91%	91%	91%	91%
Consumables	100%	100%	100%	100%	100%
Other operating Cost	70%	66%	66%	76%	89%
Working Capital Loan Interest	NA	NA	85%	85%	85%
Financing Charges	90%	85%	85%	85%	85%
Overall % of O&M cost as Aeronautical	87%	80%	87%	88%	91%

17.4. Summary of O&M Costs (Aeronautical) actual/projected by MIAL as per the initial submission dated 11.10.2011 is as under:

Table 66: Summary of Aeronautical O&M Costs submitted by MIAL

Cost Item/FY (in Rs crores)	*FY10*	*FY11*	*FY12*	*FY13*	*FY14*
Employee Cost	*69.0*	*69.1*	*79.6*	*114.1*	*137.8*

Cost Item/FY (in Rs crores)	*FY10*	*FY11*	*FY12*	*FY13*	*FY14*
Operation Support Cost to AAI	*13.1*	*-*	*-*	*-*	*-*
Electricity, Water and Fuel Costs (net of recoveries)	*59.8*	*21.8*	*51.9*	*84.1*	*160.9*
Repair & Maintenance Cost	*27.7*	*25.7*	*37.1*	*79.5*	*135.6*
Rents, Rates & Taxes (net of recoveries)	*6.6*	*12.4*	*74.1*	*23.3*	*23.6*
Advertising Cost	*4.4*	*5.9*	*6.4*	*10.0*	*14.5*
Administrative Costs	*28.6*	*28.6*	*46.4*	*67.0*	*81.2*
Airport Operator's Fees	*5.3*	*5.4*	*5.5*	*5.7*	*5.8*
Insurance Cost	*2.6*	*2.4*	*3.1*	*4.0*	*6.2*
Consumables	*5.3*	*5.9*	*6.9*	*7.9*	*9.1*
Other operating Cost	*30.7*	*32.8*	*39.3*	*43.3*	*88.9*
Working Capital Loan Interest	*-*	*-*	*5.3*	*10.6*	*10.6*
Financing Charges	*2.4*	*2.6*	*1.1*	*1.2*	*1.3*
Total	*255.6*	*212.6*	*356.7*	*450.5*	*675.6*

17.5. MIAL, vide their submission dated 23.11.2011, submitted benchmarking of their O&M and Employee Costs with some other airports in India. The same is reproduced below:

Table 67: Benchmarking of O&M and Employee costs submitted by MIAL

Name of Airport / Company	*Period*	*Operating Cost (in Rs. Million)*	*Pax in Million*	*Operating Costs/Pax*
*Mumbai International Airport Private Limited**	*FY11*	*2,559.00*	*29.07*	*88.03*
*Delhi International Airport Private Limited**	*FY11*	*5,474.60*	*29.94*	*182.85*
*Airports Authority of India**	*FY10*	*26,173.88*	*123.76*	*211.50*
Trivandrum Airport#	*FY11*	*881.00*	*2.53*	*348.65*
Ahmedabad Airport#	*FY11*	*779.00*	*4.04*	*192.66*

**- Taken from Annual Accounts of the respective companies.*

#-Taken from Order No. 01/2010-11 for Trivandrum Airport and 02/2010-11 for Ahmedabad Airport issued by the Authority

17.6. MIAL further submitted that

> *"…..It can be seen from the data presented above that MIAL currently operates at a lowest operating cost per passenger amongst the comparators, inspite of the fact that there are quite a few cost which are significantly higher in Mumbai such as minimum wages payable to workers, salaries payable to staff and per unit electricity cost etc. Further, few costs which are unique to CSIA / airports in Maharashtra which may not be applicable to other airports such as Property Tax/ Municipal Tax and Non Agriculture Tax etc."*

17.7. While reviewing the submissions made in respect of O&M Costs, MIAL were requested to submit Auditor Certificates for head-wise O&M Costs for FY10, FY11 and FY12.

In response, MIAL submitted the head-wise O&M Costs certificates, certified by their Auditor for consideration of the Authority.

Employee's Cost

17.8. MIAL, vide their submission dated 11.10.2011, submitted that the key drivers for employee cost are the number of employees employed for the Aeronautical and Non-Aeronautical Services. The junior and middle level management employees can be clearly identified for providing the Aeronautical and Non-Aeronautical Services. However, the senior management employee cost cannot be directly attributed to either Aeronautical or Non-Aeronautical Services, therefore it has been allocated based on the proportion of identified Aeronautical and Non-Aeronautical costs.

17.9. MIAL further submitted regarding the headcount and annual increase in employee cost as under,

> *"The cost incurred towards employees in a year is determined by the headcount and the applicable compensation. The headcount has been projected in line with the expansion of the airport and increased needs arising out of increasing activities. In addition, the compensation for existing employees is expected to increase by 15% on an average every year. This is based on average annual increment of 6% along with inflationary increase of 8.94% p.a. based on CPI. The annual increase, works out to 15.48%, which has been taken as 15% p.a. To account for increase in existing employee compensation, the Employees cost incurred in the base year is increased by 15% each year for employees in that year to arrive at the Employees Cost of existing employees for that year."*
>
> *"Average employee cost for FY 2011-12 is considered as the average hiring cost for new employees in FY 2011-12, FY 2012-13 and FY 2013-14, which is then multiplied by number of new employees in each year to arrive at employee cost of new employees. Total employee cost for these three years is then calculated by adding the cost of existing and new employees."*

17.10. Head Count and Employee Cost for Aeronautical Services submitted by MIAL vide their initial submission dated 11.10.2011 is as under:

Table 68: Head Count and Employee Cost for Aeronautical Services submitted by MIAL

	FY 10	FY 11	FY 12	FY 13	FY 14
	Actual		*Projections*		
Head Count (Nos.)	*772*	*836*	*960*	*1,173*	*1,261*
Employee Cost (in Rs. Cr.)	*80*	*84*	*97*	*138*	*167*

17.11. MIAL, vide their submission dated 23.11.2011, submitted that main reason for increase in employee cost during the control period is the increase in head counts for readiness and operationalisation of New Common user terminal which is scheduled to be operational from September 2013.

17.12. MIAL, in the same letter, submitted that the employee cost increases on account of the following reasons:

17.12.1. Annual Increments – Annual increments in salary have been assumed to be 15% p.a. which are also close to the average increase in past 4 years. Further, net increase after accounting for inflation of 8.94% is only 6.06%, which is normal considering normal increments and increments due to promotion.

17.12.2. Head Count: The Head Count has been determined for each department separately depending upon operational requirements for each year separately. MIAL have further revisited its assumption for increase in manpower requirements as suggested by the Authority and has reduced projected requirements.

17.13. MIAL further submitted a table with the reasons for increase in headcount, which is reproduced below:

Table 69: Estimation of headcount submitted by MIAL

Department	*FY11 Actual*	*FY12 Projected*	*FY13 Projected*	*FY14 Projected*	*Reasons for Increase in Headcount*
Director's Office	*11*	*12*	*12*	*12*	-
Quality and Safety	*16*	*19*	*40*	*45*	*Additional Survey, Inspection team to be included to make operational activities more effective and efficient*
Airside Operation	*2*	*4*	*5*	*5*	*To support increase ATMs*
Airside Safety	*34*	*35*	*35*	*35*	*To support increase ATMs*
AOS	*40*	*49*	*50*	*50*	*To support increase ATMs*
Emergency Services	*156*	*177*	*205*	*205*	*Head Count increase as per CAT 10 operations requirement*
Airside & Ground Maintenance	*12*	*13*	*15*	*15*	*To support effectively increase in airside operations*
Engg & Maint	*106*	*113*	*140*	*150*	*Operation Area to be*

Department	FY11 Actual	FY12 Projected	FY13 Projected	FY14 Projected	Reasons for Increase in Headcount
					increased to approx. double in FY '13 and then by another 20% in FY '14. Hence proportional increase in manpower is envisaged.
Terminal Operations	91	91	125	145	Operation Area to be increased to approx. double in FY '13 and then by another 20% in FY '14. Hence proportional increase in manpower is envisaged.
Operations Procurement	13	13	16	16	-
Landside Operations	11	15	20	20	Operation Area to be increased to approx. double in FY '13 and then by another 20% in FY '14. Hence proportional increase in manpower is envisaged.
GA Terminal	22	32	33	33	-
Customer Care	3	3	20	35	Currently team only managing ASQ. Additional team to be built to carry out surveys and research. Design and implement customer service program.
Cargo	114	137	8	8	-
Security	20	22	40	40	Operation Area to be increased to approx. double in FY '13 and then by another 20% in FY '14. Hence proportional increase in manpower is envisaged.
MD's Office	4	4	4	4	-
President's Office	3	3	4	4	-
Strategy Division	2	3	3	3	-
Regulatory*	2	3	4	4	-
Legal*	6	8	9	10	-
Finance & Accounts*	26	34	37	41	-
Human Resources*	27	29	32	35	-
Information Technology	23	34	37	41	Additional Manpower will be required to support new technologies in T2. Also, the IT support will have to be increased to manaqe the new terminal
Land Management	2	2	2	2	-
Corporate Relation*	22	25	28	31	-
Environment	4	4	4	4	-
Corporate Communication*	5	5	6	7	-
Commercial*	16	19	21	23	-
ATS*	5	5	6	7	-

Department	FY11 Actual	FY12 Projected	FY13 Projected	FY14 Projected	Reasons for Increase in Headcount
Horticulture	*4*	*4*	*4*	*4*	*Staff addition due to addition in operational area*
*Airport Marketing & Aero Business**	*13*	*22*	*24*	*26*	*-*
Total	*836*	*960*	*1010*	*1081*	

** A 10% increase in Head Count has been taken for Support functions due to increased activities for new terminal.*

17.14. The revised manpower cost, submitted by MIAL vide their submission dated 23.11.2011 and subsequently certified by their auditors for FY 10 and FY 11, is as under:

Table 70: Revised manpower cost submitted by MIAL

	FY 10 Actual	FY 11 Actual	FY 12 Projected	FY 13 Projected	FY 14 Projected
Head Count (Nos.)	772	836	960	1010	1081
Cost (in Rs. Crs.)	79.8	83.8	96.5	129.3	148.7

17.15. MIAL, vide their submission dated 26.06.2012, furnished the manpower count and cost, certified by their auditor for the year 2011-12. The revised manpower count and cost with actuals for FY12 is as under:

Table 71: Revised manpower cost with actuals for FY 2012

	FY 10 Actual	FY 11 Actual	FY 12 Actual	FY 13 Projected	FY 14 Projected
Head Count (Nos.)	*772*	*836*	*902*	*1010*	*1081*
Cost (in Rs. Crs.)	*79.8*	*83.8*	*109.44*	*129.3*	*148.7*

Electricity Costs

17.16. MIAL, vide their submission dated 11.10.2011, submitted that the electricity cost per unit is projected to grow in line with CPI. The consumption is computed based upon additional load factor in future. The recoveries form concessionaires (towards Non-Aeronautical costs) have been deducted from total electricity cost to arrive at net electricity cost for Aeronautical Services.

17.17. MIAL also submitted that the impact of previous year's regulatory asset recovery ordered by the Hon'ble Maharashtra Electricity Regulatory Commission ('MERC') is considered in three years beginning December 2011. In addition, MERC has ordered levy of cross-subsidy surcharge (CSS) of Rs. 0.26/unit on electricity consumed via Reliance Infrastructure's (Distribution) network on changeover consumers like MIAL. MIAL further submitted that exact implications of these orders are not known at this stage, therefore, MIAL requested the Authority to consider true-up of these costs and electricity rates as and when they are determined by MERC.

17.18. The summary of electricity cost, submitted by MIAL vide their submission dated 11.10.2011, is as under:

Table 72: Summary of electricity cost submitted by MIAL

In Rs. Cr.	FY 10	FY 11	FY 12	FY 13	FY 14
	Actual		Projections		
Electricity Cost	54	19	46	78	153

17.19. MIAL, vide their submission dated 23.11.2011, stated that increase in the Electricity Cost is on account of the following factors:

"a) Annual increase in electricity tariff: - MIAL stated that the increase in electricity tariff is beyond the control of MIAL as the same is set by Electricity Regulatory. MIAL further submitted that they have represented before the regulator for considering lower than existing tariff for MIAL. MIAL submitted that for the present filling, MIAL have considered an annual increase in electricity tariff equivalent to inflation (i.e. 5 year CAGR of CPI). MIAL further submitted that the previous increase have also been more than inflation.

b) Increase in load due to launch of New Common User Terminal – MIAL submitted that there is one time, non-recurring increase in electricity load at two occasions due to New Common User Terminal (a) 6.5 MVA of load would be required in December 2012 for testing of Chillers and Other equipment and (b) 31.51 MVA of load would be added and 7 MVA de-commissioned (removed) on start of New Common User Terminal in September 2013.

c) Increase in Load factor with passenger growth - MIAL submitted that they have assumed that the utilisation of load factor and consumption would increase with a growth rate equal to 50% of passenger growth rate. This is because some part of the airport load (like lighting) has constant load factor (fixed load) that does not depend on passengers numbers, *whereas some portion of the load has variable load factor and hence, consumption increases/decreases depending upon the number of passengers using these facilities. However consumption due to these facilities is not purely variable but comprises of some fixed portion and some variable portion which is purely dependent on the usage. With increase in number of passengers, the usage of the equipment and hence variable consumption increase. MIAL submitted that CSIA has about 26% lighting load, 58% HVAC load and 16% mechanical load while 26% lighting load has fixed load factor, balance 74% load is assumed to have 24% fixed load factor component and 50% variable load factor component making total fixed and variable load factor component 50% each. Accordingly, the increase in load factor by 50% of growth rate of passenger has been used for tariff filling. MIAL submitted that this is also validated by the fact that CSIA has made about 5% savings in electricity in previous year by various energy conservation measures, which otherwise would have resulted in 5% increase in electricity consumption that has not happened as electricity consumption has almost remained same. 5% increase in electricity consumption is almost 50% of 3 year CAGR of 11% p.a. increase in passenger numbers and hence, the assumption of increase in load factor by 50% growth rate of passengers is reasonable.*

d) Regulatory Asset Recovery ordered by MERC – MIAL submitted that MERC has in principle decided to levy recovery of Regulatory Asset in its recent tariff order of R-Infra-D (erstwhile Electricity supplier to MIAL), which is to be recovered in the coming years. MIAL submitted that they have estimated their liability based on the said order to be paid in a period of 3 years.

17.20. MIAL, vide their submission dated 23.11.2011, submitted that they have revised their electricity cost downwards for FY 12 from the initial submission by dropping the inflationary increase for FY 12 as Electricity Company is yet to file its ARR after previous tariff revision in September 2010, which is not likely to be approved before March 2012.

However, as the revenue gap for two years is likely to be passed on in FY 13, they have considered increase in FY 13 as twice the inflation rate.

17.21. MIAL, vide their submission dated 26.06.2012, furnished the electricity cost certified by their auditor for the year 2011-12. The revised electricity cost after considering actuals for FY12 is as under:

Table 73: Revised electricity cost after considering actuals for FY 2012

In Rs. Cr.	*FY 10*	*FY 11*	*FY 12*	*FY 13*	*FY 14*
	Actual			*Projections*	
Electricity Costs	*54*	*19*	*31*	*56*	*108*

17.22. MIAL, vide their submission dated 26.06.2012, submitted that MERC has in principle decided to levy recovery of Regulatory Asset in its recent tariff order of R-Infra-D (erstwhile Electricity supplier to MIAL), which is to be recovered in the coming years. MIAL submitted that they have estimated their liability based on the said order to be paid in a period of 3 years starting from January 2012. MIAL further submitted that R-Infra has not commenced collection of the same, therefore they have shifted the recovery to commence from April 2012.

17.23. Further, vide submission dated 16.08.2012, MIAL submitted that they have envisaged that International Cargo operations would be outsourced from October 2012 and MIAL would be recovering the cost towards electricity charges from the Concessionaire.

17.24. MIAL submitted that actual Electricity units consumed by MIAL for cargo from April 2012 to June 2012 is 9.58 Lakhs unit. Therefore after outsourcing of International Cargo Operations, consumption of electricity for FY 13 (from October 2012 to March 2013) and FY 14 that would be recovered from the concessionaire will be 19.16 lakhs units and 38.71 Lakhs units respectively.

17.25. In their additional clarification dated 29.08.2012, MIAL submitted that the electricity cost per unit for year 2011-12 should be considered Rs. 7.10 instead of Rs. 7.20 as per their initial submission and also submitted the auditor certificate, certifying the electricity cost per unit of Rs 7.1 for FY 2011-12.

Water & Fuel Cost

17.26. MIAL, vide their submission dated 11.10.2011, submitted that Water and Fuel costs per unit are projected to grow in line with CPI considering FY11 as the base Year, however, the consumption is considered constant till New Common User Terminal becomes operational where after increase is based on assessed level of usage. MIAL submitted that the total cost in a year is estimated by multiplying the projected cost per unit with the projected consumption in that year. The recoveries from concessionaires (towards Non-Aeronautical costs) have been deducted from total water cost to arrive at net water cost for Aeronautical services.

17.27. The summary of water and fuel cost submitted by MIAL vide their submission dated 11.10.2011 is as under:

Table 74: Summary of water and fuel cost submitted by MIAL

In Rs. Cr.	FY 10	FY 11	FY 12	FY 13	FY 14
	Actual		Projections		
Water & Fuel Costs	6	3	6	7	9

17.28. Further, vide their submission dated 16.08.2012, MIAL provided workings of L&T for water requirements of New T2 and submitted as under,

"Total water requirements for new T2 as per the working done by L&T for MIAL is 3,038,625 KL per year for 40 million passengers per annum. Since in FY 14 new T2 would be operational only for 7 months and projected passengers are 34.4 million and therefore proportionate consumption is envisaged to be 1,640,155 KL for FY 14.

Particulars	***KL***
Water Consumption upto August 13, net of recovery (977,000 x 5/12) KL	*407,083*
From September 13 to March 14 as above for 34.4 million passengers per annum (8,325 x 365 x 34.4/40 x 7/12)	*1,524,377*
Less: Recovery from September 13 to March 14 (41,615 x 7)	*(291,305)*
Total	*1,640,155*

"

17.29. MIAL submitted the water & fuel cost, certified by their auditor for the years 2009-10, 2010-11 and 2011-12. The revised water & fuel cost after considering actuals for FY 10 to FY12 is as under:

Table 75: Revised water & fuel cost after considering actual for FY10 to FY12

In Rs. Cr.	*FY 10*	*FY 11*	*FY 12*	*FY 13*	*FY 14*
	Actual			*Projections*	
Water & Fuel Costs	*7*	*5*	*6*	*6*	*10*

Repair and Maintenance Cost

17.30. MIAL, vide their submission dated 11.10.2011, submitted that the Repair and Maintenance Cost (R&M) is estimated to be 1.25% of the Gross Fixed Assets (GFA) (including DF funded assets) in line with practices in other infrastructure sectors. MIAL submitted that average R & M costs as percentage of GFA for FY 2009-10 and FY 2010-11 is 1.33%. MIAL submitted that in the future years they have assumed a lower percentage at 1.25% as the GFA would increase rapidly. In addition, a major repair cost of the taxiway amounting to Rs. 26 Cr. is also included in FY 2012-13.

17.31. The summary of Repair and Maintenance cost submitted by MIAL vide their submission dated 11.10.2011 is as under:

Table 76: Summary of R&M Costs submitted by MIAL

In Rs. Cr.	*FY 10*	*FY 11*	*FY 12*	*FY 13*	*FY 14*
	Actual		*Projections*		
R & M Costs	*29*	*27*	*40*	*85*	*144*

17.32. MIAL, vide their submission dated 23.11.2011, submitted the basis for projection of R&M costs. MIAL stated as under,

"MIAL has considered 1.25% of the opening value of Gross Fixed Assets (GFA) for projecting the R&M expenses. This ratio for last 5 years has been 6.1%, 7.2%, 2.5%, 1.56% and 1.1% respectively. Although R&M cost has been increasing in absolute terms, this ratio has first increased and then have shown a declining trend. R&M cost, other than that on comprehensive operations and maintenance contract, is mostly contingent upon the unplanned repairs and maintenance activities required for various civil, mechanical and electrical works in a particular year. For example, an old machinery may require huge maintenance cost in particular year, but may not need it for next few years. Hence, R&M cost cannot be correctly estimated based on past trend. The closest estimate for projecting R&M cost can be computed by linking it to the driving factor for various R&M activities. As R&M activities are directly dependent upon the quantum of assets required to be maintained, the R&M cost is usually estimated on the basis of value of assets maintained. For example, Delhi Electricity Regulatory Commission (DERC) has specified R&M expenses to be fixed as

proportion of GFA in its Multi Year Tariff Regulations (MYT). While determining the R&M expenses in case of North Delhi Power Limited (NDPL), DERC observed that there was large variation in the proportion of R&M expenses as a percentage of GFA over last five years and hence, has taken average 2.82% for projecting the R&M expenses………… Hence, R&M cost as 1.25% of opening GFA, which is much less than average of 3.69% for preceding 5 years is justified considering that new assets would require lesser maintenance. It may also be noted that R&M cost as a proportion of GFA is increasing substantially due to substantial additional of assets in this control period. R&M expenses are expected to be more stable after commissioning of new Common User Terminal. The example of NDPL as an electricity distribution utility is also from a business that has regular addition of assets for meeting the increasing demand of electricity as is the case with MIAL. Additionally Rs. 26 Crores is the planned expenditure for repair of taxiway N1 in FY 13."

17.33. Further, vide their submission dated 26.06.2012, MIAL submitted the R&M Cost certified by their auditor for the year 2011-12. The revised R&M cost after considering actuals for FY12 is as under:

Table 77: Revised R&M cost after considering actuals for FY 2012

In Rs. Cr.	*FY 10*	*FY 11*	*FY 12*	*FY 13*	*FY 14*
	Actual			*Projections*	
R & M Costs	*29*	*27*	*39*	*80*	*139*

Rents, Rates and Taxes

Property Tax

17.34. MIAL, vide their submission dated 11.10.2011, submitted that Property Tax in the city of Mumbai is to be computed based on the new capital value system. MIAL submitted that as the draft rules for computation of property tax have not yet been finalised by Government of Maharashtra, Property Tax has been considered based upon old system and rates.

17.35. MIAL, vide their submission dated 11.10.2011, submitted that the Property tax as per new capital value system has been proposed to be levied from 1st April 2010 onwards and the estimated tax liability as per the draft rules is likely to increase substantially which will lead to higher aeronautical tariffs at CSIA. However, in view of lack of clarity, no effect of increased property tax (consequent to change over to new capital value system) has been considered in present application. MIAL requested the Authority that Property Tax being a statutory cost, should be trued up in subsequent years as and when the same is finalised.

Non Agricultural Tax (NA Tax)

17.36. MIAL, vide their submission dated 11.10.2011, submitted that the Non Agricultural Tax (NA Tax) for FY 12 has been considered based upon demand notice of Rs. 61.38 crores received. For subsequent years, this tax has been considered as Rs. 10.23 crores per annum. MIAL submitted that increase is Non Agriculture Tax Rate for the period 01.08.2006 to 31.07.2011 is under consideration by Government of Maharashtra (which may increase the liability of NA Tax) and it is again due for revision from 01.08.2011. MIAL further submitted that the impact of the same has not been factored due to non-availability of final rates. MIAL requested the Authority that Non Agricultural Tax being a statutory cost, should be trued up in subsequent years as and when the same is finalised.

17.37. The summary of Rents, Rates and Taxes submitted by MIAL vide their submission dated 11.10.2011 is as under:

Table 78: Rents, Rates and Taxes submitted by MIAL

In Rs. Cr.	*FY 10*	*FY 11*	*FY 12*	*FY 13*	*FY 14*
	Actual		*Projections*		
Rents, Rates and Taxes	*7*	*12*	*74*	*23*	*24*

17.38. Further, vide their submission date 24.07.2012, MIAL submitted that in the matter of NA tax, appeal is still pending before Revenue Minister for disposal, therefore, the amount provided earlier in FY 12 has been carried forward to FY13. MIAL submitted that appeal was finally heard on June 07, 2011 and reserved for orders. Till date, no order has been passed by the Hon'ble Revenue Minister, Government of Maharashtra.

17.39. MIAL submitted the Rents, Rates and Taxes certified by their auditor for the year 2011-12. The revised Rents, Rates and Taxes after considering actuals for FY12 is as under:

Table 79: Revised Rents, Rates and Taxes after considering actuals for FY12

In Rs. Cr.	*FY 10*	*FY 11*	*FY 12*	*FY 13*	*FY 14*
	Actual			*Projections*	
Rents, Rates and Taxes	*7*	*12*	*12*	*84*	*23*

Advertising Costs

17.40. MIAL, vide their submission dated 11.10.2011, submitted that the advertising costs have been considered to increase in line with the CPI. MIAL submitted that cost for the launch of the New Common User Terminal is included in FY 13 and FY 14 as Rs. 3 Cr. and Rs. 7 Crs. respectively.

17.41. The summary of Advertising costs submitted by MIAL vide their submission dated 11.10.2011 is as under:

Table 80: Summary of Advertising Costs submitted by MIAL

In Rs. Cr.	*FY 10*	*FY 11*	*FY 12*	*FY 13*	*FY 14*
	Actual		*Projections*		
Advertising Costs	5	6	7	10	15

17.42. Further, vide their submission dated 26.06.2012, MIAL submitted the Advertising costs certified by their auditor for the year 2011-12. The revised Advertising costs after considering actuals for FY12 is as under:

Table 81: Revised Advertising Costs after considering actuals for FY12

In Rs. Cr.	*FY 10*	*FY 11*	*FY 12*	*FY 13*	*FY 14*
	Actual			*Projections*	
Advertising costs	4	6	4	7	12

Administrative Costs

17.43. MIAL, vide their submission dated 11.10.2011, submitted that the administrative costs such as travelling and conveyance, legal and professional charge, communication etc. have been considered to increase in line with the CPI.

17.44. MIAL submitted that the following specific costs have also been taken into consideration.

a. Consultancy cost for Airport Operation Readiness (AOR) amounting to Rs. 15 Crs in FY 12, Rs. 35 Cr. In FY 13 and Rs. 20 Cr. In FY 14.

17.45. The summary of Administrative costs submitted by MIAL vide their submission dated 11.10.2011 is as under:

Table 82: Summary of Administrative costs submitted by MIAL

In Rs. Cr.	*FY 10*	*FY 11*	*FY 12*	*FY 13*	*FY 14*
	Actual		*Projections*		
Administrative costs	32	34	55	79	96

17.46. MIAL, vide submission dated 23.11.2011, clarified that routine Administrative Costs have been projected based on inflationary increases of 8.94% p.a. Additionally specific planned expenditure such as consultancy cost of Airport Operations Readiness and Business Development, IT services outsourcing cost have been added wherever required. During the discussions, MIAL explained that Airport Operations Readiness cost includes the expenditure to be incurred by MIAL to make the new domestic and international terminals operationally ready including tests runs.

17.47. MIAL, vide their submission dated 26.06.2012, submitted that consultancy for Business Development for FY 13 is revised to Rs.16 crores considering likely expenditure on the same. Further Rs. 5.77 crores short spent on Airport operations. Readiness (AOR) in FY 12 is expected to be incurred in FY14 and projection revised accordingly.

17.48. Further, vide their submission dated 26.06.2012, MIAL furnished the Administrative costs certified by their auditor for the year 2011-12. The revised Administrative costs after considering actuals for FY12 is as under:

Table 83: Revised Administrative costs after considering actuals for FY12

In Rs. Cr.	*FY 10*	*FY 11*	*FY 12*	*FY 13*	*FY 14*
	Actual			*Projections*	
Administrative costs	*32*	*34*	*54*	*94*	*104*

Airport Operator Fee

17.49. MIAL, vide their submission dated 11.10.2011, stated that the fee payable to the airport operator is projected to increase annually at the rate equal to US CPI Inflation (which is assumed at 2.5% p.a.) as per Airport Operator Agreement dated 28.04.2006 between MIAL and ACSA Global Limited and this expenditure is projected to continue in FY14 on the same basis.

17.50. Further, vide their submission dated 26.06.2012, MIAL submitted the Airport Operator Fee certified by their auditor for the year 2011-12. The revised Airport Operator Fee payable to the airport operator after considering actuals for FY12 is as under:

Table 84: Airport Operator Fee after considering actuals for FY12

In Rs. Cr.	*FY 10*	*FY 11*	*FY 12*	*FY 13*	*FY 14*
	Actual			*Projections*	
Airport Operator Fee	*5*	*5*	*6*	*6*	*6*

Insurance Costs

17.51. MIAL, vide their submission dated 11.10.2011, submitted that the insurance costs are projected as per the projected value of insurance for various policies. MIAL submitted that they have two major insurance policies. One is Industrial All Risk Policy covering all fixed assets of MIAL, value of which is expected to increase in line with increase in fixed assets. Another policy is Airport Operator's Liability Policy for third party claims, premium of which is expected to increase in line with CPI.

17.52. MIAL, vide their submission dated 26.06.2012, furnished the Insurance costs certified by their auditor for the year 2011-12. The revised Insurance costs after considering actuals for FY12 is as under:

Table 85: Insurance Costs after considering actuals for FY12

In Rs. Cr.	*FY 10*	*FY 11*	*FY 12*	*FY 13*	*FY 14*
	Actual			*Projections*	
Insurance Costs	*3*	*3*	*3*	*4*	*6*

Interest on Working Capital and Financial Charges

17.53. MIAL, vide their submission dated 11.10.2011, stated that the interest on working capital has been considered for FY 2011-12 on an amount of Rs. 50 crores and Rs. 100 crores for subsequent two years, considering the level of use of Working Capital facilities. MIAL submitted that financial charges have been taken on actual basis for FY 2009-10 and 2010-11 and at projected levels based on increased requirements for subsequent years.

17.54. Further, MIAL considered rate of interest of 12.5% per annum for the working capital. MIAL submitted the interest costs in their initial submission as under:

Table 86: Estimates of Working capital and Interest Costs submitted by MIAL

In Rs. Cr.	FY 10	FY 11	FY 12	FY 13	FY 14
	Actual			Projections	
Working capital	-	-	50	50	-
Interest costs	-	-	6	12	12

17.55. Further, vide their submission dated 24.07.2012, MIAL submitted that the requirement of working capital loan is projected to be around 100 crs in FY13 due to increase in working capital requirements of the company. MIAL submitted that there is increase in outstanding amount from Air India and Kingfisher Airlines resulting from non-payment of dues by them, consequently increasing the working capital requirement. MIAL submitted that as on 30.06.2012 Rs. 197.34 crs (excluding Rs. 76.14 crs for interest) and Rs.

29.86 crs (excluding Rs. 28.31 crs for interest) is outstanding from Air India and Kingfisher Airlines respectively and an amount of Rs. 141.39 crs is outstanding from other airlines and concessionaires.

17.56. In their submission dated 24.07.2012, MIAL stated that the bankers are not prepared to fund beyond 365 days for NACIL and beyond 90 days for other debtors. Further due to change in Service Tax rules, MIAL submitted that they have to pay the Service Tax to the Government in advance thereby increasing the working capital requirement though amounts are realised from its customers much later. MIAL further submitted that higher Annual Fee is also required to be paid in advance to AAI due to increase in revenues irrespective of whether the same is collected or not.

17.57. In view of the same, MIAL submitted the revised estimation of working capital loan and also the interest costs based on actual interest cost for working capital for FY 2012, as certified by their auditor, as under:

Table 87: Revised estimates of Working capital and Interest Costs submitted by MIAL

In Rs. Cr.	*FY 10*	*FY 11*	*FY 12*	*FY 13*	*FY 14*
	Actual			*Projections*	
Working capital	-	-	-	100	-
Interest costs	-	-	2	12	12

Other Operating Costs

17.58. MIAL, vide their submission dated 11.10.2011, projected the other operating costs taking into consideration the actual of FY 2010-11 as base:

17.58.1. Cleaning Contract - MIAL submitted that the cleaning contracts are labour oriented. For the purpose of projection, it has been assumed that the headcount would increase by 10% in FY 2011-12. For the increase in the wages, 4 years CAGR of National Floor Level of minimum wages has been considered. MIAL further submitted that the cost is doubled in FY 2013-14 due to new Common User Terminal.

17.58.2. Trolley Contract - MIAL submitted that cost related to trolley contract is increased based on passenger growth and 4 years CAGR of National Floor Level of minimum wages.

17.58.3. Security Contract - MIAL submitted that 15% increase in head count considered in FY 12 over FY 11 due to additional requirements. MIAL submitted that head count doubled in FY 14 due to launch of New Common User Terminal from 1st September 2013. MIAL further submitted that wages are projected to increased based on 4 years CAGR of National Floor Level of minimum wages

17.58.4. Inter-Terminal coaches Contract - MIAL submitted that cost related to Inter-Terminal coaches Contracts are increased based on 4 additional buses to be included from FY 12 and thereafter increase based on CPI.

17.58.5. Other Contracts - MIAL submitted that cost related to Other Contracts are increased based on 4 years CAGR of National Floor Level of minimum wages

17.58.6. Further, vide their submission dated 23.11.2011, MIAL submitted that the costs of operating contract for cleaning services have been increased annually with rate of increase in Minimum Wages (CAGR of 9.49% for last four years). Additional 10% increase in manpower has been considered for FY 12. MIAL submitted that on commencement of operation from New Common User Terminal, cost has been increased in proportion to increase in area and additional 100% increase due to requirement of specialised cleaning manpower and equipment for the State-of-the-Art New Common User Terminal and considering significant glasswork and intricate roof and jail work.

17.59. The summary of Other Operating Expenses submitted by MIAL, vide their submission dated 11.10.2011, is as under:

Table 88: Summary of Other Operating Expenses submitted by MIAL

In Rs Cr.	*FY 10*	*FY11*	*FY12*	*FY13*	*FY14*
	Actual		*Projections*		
Cleaning Contract	*12*	*13*	*15*	*17*	*56*
Trolley Contract	*5*	*5*	*6*	*7*	*8*
Security Contract	*7*	*8*	*10*	*11*	*18*
Inter- terminal coaches Contract	*4*	*4*	*6*	*6*	*7*
Other Contract	*16*	*20*	*23*	*16*	*11*
Other Operating costs (Total)	*44*	*50*	*60*	*57*	*100*

17.60. The Authority while reviewing the MYTP noted that FY12 has ended. In view of this, the Authority asked MIAL to submit the audited account and auditor certificates for FY12. MIAL, vide their submission dated 26.06.2012, furnished the Other Operating costs certified by their auditor for the year 2011-12. The revised Other Operating costs after considering actuals for FY12 is as under:

Table 89: Revised Other Operating costs after considering actuals for FY12

In Rs Cr.	*FY 10*	*FY11*	*FY12*	*FY13*	*FY14*
	Actual			*Projections*	
Cleaning Contract	*12*	*13*	*16*	*17*	*32*
Trolley Contract	*5*	*5*	*4*	*5*	*6*
Security Contract	*7*	*8*	*10*	*10*	*18*
Inter- terminal coaches Contract	*4*	*4*	*5*	*6*	*6*
Other Contract	*16*	*20*	*25*	*24*	*12*
Other Operating costs (Total)	*44*	*50*	*60*	*62*	*74*

Observations on Electricity Cost

17.61. The Authority observed that Electricity Charges are fixed by regulatory authorities/agencies and may not necessarily be linked to (CPI-IW) inflation. The Authority, therefore, proposes not to consider inflationary increase in the unit rate of electricity and instead follow the most recent unit rate approved by the regulator for the remaining years in the control period subject to true-up based on actuals. The Authority proposes to follow the similar approach in determination of recovery of electricity expenses from the concessionaires.

17.62. The electricity cost, without considering inflationary increase in the unit rate of electricity, is as under:

Table 90: Summary of Electricity Cost without considering inflationary increase in the unit rate

In Rs. Cr.	FY 10	FY 11	FY 12	FY 13	FY 14
	Actual			Projections	
Electricity Costs (net of recovery)	54	19	31	56	108

Observations on Administrative Costs

17.63. MIAL, vide their submission dated 08.08.2012, submitted that the cost pertaining to Airport Operations Readiness and Consultancy for Business Development included the employee payroll cost for the employees involved in these activities. The Authority sought from MIAL the details of costs considered under Airport Operations Readiness and Consultancy for Business Development. MIAL submitted the same as under:

"Details of expenses to be incurred for Airport Operations Readiness (AOR) for FY 13 and FY 14 are as under:

Rs. In Crs.	FY13	FY 14
Staff Costs -Payroll	17.53	9.25
Consultants	16.04	16.06
IT Consumables/ Hardware/ Training	0,41	0.28
eFast & Software	0,45	0.00
Training Costs	0.12	0.12
Printing Costs	0.04	0.04
Other Expenses	0,41	0.01
Total	35.00	25.76

"

17.64. MIAL further submitted as under:

"Expenditure for Business Development consultancy for FY 13 is Rs. 16 Crs. considering need of engaging specialized consultants to optimize business development for new T2. Details of Rs. 16 cr and Rs. 3 Crs. envisaged for FY 13 and FY 14 respectively including Payroll cost is as below.

Consultant Name	*Country*	*FY13 (Rs. Crs)*	*FY 14 (Rs. Crs)*
Mc Kinsey	*India*	*3.56*	-
Pragma	*UK*	*2.52*	-
Compass	*UK*	*1.98*	-
Brain & Poulter	*Australia*	*1.94*	-
Legal Consultant		*1.25*	-
Marketing Consultant		*0.24*	-
Other experts – Salary		*4.00*	*2.90*
Miscellaneous Expenses		*0.50*	*0.10*
Total		*16.00*	*3.00*

"

17.65. During the discussions, MIAL explained that "Staff costs – Payroll in the table presented under para 17.63 and "Other experts – Salary" presented in the table under para 17.64 pertains to the cost of employees under MIAL's payroll. MIAL, vide their submission dated 29.08.2012 clarified that the employee cost being considered under these two heads have not been considered in the Employee Costs discussed in paras 17.8 to 17.15.

17.66. The Authority noted that employee costs, included in the above tables, should be considered along with Employee costs discussed in para 17.8 above The other expenses appear to be of the nature of administrative costs and hence may be retained under Administrative costs. Accordingly, the Authority has proposed the following expenses to be considered as part of Administrative costs:

Table 91: Expenses considered to be part of Administrative costs

Rs. In Crs.	FY13	FY 14
Airport Operations Readiness	17.47	16.51
Consultancy for Business Development	12.00	0.01

Interest on DF Loan

17.67. MIAL, vide their submission dated 26.06.2012, submitted that MIAL is in the process of obtaining a loan against securitisation of approved Development Fee (DF) of Rs. 876 Crs. MIAL submitted that the Loan against DF is expected to be received in July 2012 and would be repaid over the remaining collection period of 21 months. MIAL submitted that rate of interest for this loan is expected to be around 11.25% p.a. (excluding 0.75% as Upfront Fee) of the loan amount and interest payable on the loan is charged to the Profit and Loss account.

17.68. MIAl, vide their submission dated 24.07.2012, submitted a correction in their submission dated 26.06.2012. MIAL submitted as under,

> *"MIAL is in the process of obtaining a loan against securitization of approved Development Fee (DF) of Rs. 876 Crs. The Loan against DF is expected to be received in July 2012 and would be repaid over the remaining collection period of 21 months. Rate of interest for this loan is expected to be around 11.25% p.a. (excluding 0.50% as Upfront Fee) of the loan amount. Interest payable on the loan is charged to the Profit and Loss account. In our earlier submission Upfront fee was wrongly stated as 0.75% (typo error). However the calculations for tariff were done correctly in MYTP model and Upfront fee was taken correctly as 0.5%."*

An indicative Term-sheet for underwriting of securitization of DF of Rs. 780 crore was also submitted by MIAL. The summary of Interest on DF Loan is as under:

Table 92: Summary of Interest on DF Loan as submitted by MIAL

In Rs. Cr.	FY 10	FY 11	FY 12	FY 13	FY 14
	Actual			Projections	
Interest on DF Loan	-	-	-	59	34

17.69. It is observed that the assets funded out of DF have not been included in the RAB. Further, the debt raised by MIAL through securitization of DF is proposed not to be considered as an element in the means of finance. Therefore, the cost of this debt may not be allowed to be recovered through WACC in the current exercise for determination of tariff. Hence, the Authority tentatively decided to consider expensing out the interest thereon.

Tentative Decision No21. Regarding expensing out the interest on DF Loan

21.a. **The Authority tentatively decided to expense out the interest on loans taken for securitization of DF, falling in the current control period, as operating expenditure.**

Truing Up: 5. **Correction / Truing up for Tentative Decision No21**

5.a. The Authority tentatively decided to true-up the interest cost, incurred by MIAL in respect of DF Loan, on actuals subject to the ceiling of 11.5%.

17.70. US Dollar Exchange Rate – The Authority observed that MIAL have considered forex USD exchange rate of Rs.45.00 per USD in its tariff application. The Authority noted that this rate is being used in the tariff model submitted by MIAL for conversion of dollar-denominated share of Minimum Annual Guarantee to be received by MIAL from the concessionaire of Duty Free and for conversion of revenue to be received by MIAL from the concessionaire of CUTE services. The Authority referred to RBI published rates for exchange rate of USD to INR for latest 6 months, available till 30.08.2012, which worked out to Rs 54.03. The sensitivity on the same is as under:

Table 93: Sensitivity – Impact on X factor from US Dollar Exchange Rate

Parameter	X Factor as per the Base Model	X Factor after change in assumptions
Considering US Dollar Exchange Rate of Rs 54.03 per USD instead of Rs 45 per USD as proposed by MIAL	-873.36%	-872.65%

17.71. In view of recent trend of sharp movements in the exchange rate, the Authority may review this aspect further and would use the latest rates (trends) as may be available to it at the stage of final determination.

Tentative Decision No22. Regarding Rupee – US Dollar exchange rate for conversion of earnings for MIAL

22.a. **The Authority tentatively decided to use the RBI Reference rate for exchange of USD into INR for latest 6 month period available till 30.08.2012 at Rs 54.03 for conversion of earnings for MIAL.**

17.72. Further, the Authority in its Airport Order had stated that it will follow a bottom-up approach for assessment of operation and maintenance expenditure, which will include a review of the operation and maintenance expenditure forecast submitted by the Airport Operator. The Authority found that a review based on the following principles would be appropriate:

17.72.1. Assessment of baseline operation and maintenance expenditure based on review of actual expenditure indicated in last audited accounts, and prudency check, inter–alia, with respect to underlying factors impacting variance over the preceding year(s) including treatment for one-time costs or atypical costs;

17.72.2. Assessment of efficiency improvement with respect to such costs based on review of factors such as trends in operating costs, productivity improvements, cost drivers as may be identified, and other factors as may be considered appropriate; and

17.72.3. Assessment of other mandated operating costs or statutory operating costs, where (i) other mandated operating costs are costs incurred in compliance to directions received from other regulatory agencies including Director General Civil Aviation; and (ii) statutory operating costs are costs incurred on account of fees, levies, taxes or other charges, directly imposed on and paid for by the Service Provider.

17.73. The Authority had considered the submissions made by the stakeholders, and decided to specify that only "other mandated operating costs" and "statutory operating costs" should be considered as uncontrollable costs. Other mandated operating costs shall cover costs incurred in compliance to directions received from other regulatory agencies including Director General Civil Aviation. Statutory operating costs shall cover costs incurred on account of statutory fees, levies, taxes or other charges, directly imposed on and paid for by the Airport Operator. For the avoidance of doubts, it was clarified that the Authority would not consider: expenses that are required for meeting the required subjective and objective quality standards, exchange risks and cost to overcome under performance by allied parties, as uncontrollable costs. In effect, these costs would be considered as controllable in the Authority's assessment of operating costs. As part of the Airport Operators Multi-year Tariff Framework Application, the Authority expected Airport Operators to detail any uncontrollable cost consistent with this position, with supporting evidence and forecast these costs as part of the building blocks approach. As part of the Compliance Statement the Airport Operator would be required to present details of its audited uncontrollable cost compared to the forecast at the time of the tariff review. The Authority would reserve the right to undertake a detailed review of the uncontrollable costs and require the Airport Operator to provide detailed justification. The Authority would then adjust tariffs to reflect any adjustments in uncontrollable costs. The O&M expenditure related to mandated security expenditure as laid down by the Government/Bureau of Civil Aviation Security (BCAS) shall be considered in determination of the PSF charge for which the draft guidelines for determination of Passenger Service Fee (PSF) have been issued separately. The Authority also did not support the position of the Airport Operators that allowances should be included for bad debts in operating costs and is of the opinion that any allowance provided for working capital should be net of allocations for bad debts.

17.74. The Authority has considered the issue of operating expenses and their projections in detail. It is conscious of the fact that the issue of efficient operating and maintenance costs only is salient in a price cap determination. Further, the allocation of these costs into aeronautical and non-aeronautical categories is specially important under a shared till regulation as in the case of CSIA. In this light, the Authority would have ideally liked to have commissioned an independent study to help it assess the aspects of "efficient operating and maintenance costs" and their allocation between aeronautical and non-aeronautical heads. However, the Authority is conscious that in the current determination, only 2 years of the regulatory period are left. In this light, the Authority, presently, proposes to accept the forecasts made by MIAL, subject to the modification indicated above.

17.75. In view of the above, the summary of total operating expenses (Aeronautical) considered by the Authority, presently, for the tariff determination is as under:

Table 94: Summary of Aeronautical O&M Costs considered by the Authority

Cost Item (In Rs. million)	FY10	FY11	FY12	FY13	FY14
Employee Cost	69.0	69.1	85.3	124.7	131.6
Operation Support Cost to AAI	13.1	-	-	-	-
Electricity, Water and Fuel Costs (net of recoveries)	60.9	23.1	36.5	62.0	116.5
Repair & Maintenance Cost	27.7	25.7	37.0	75.1	131.0
Rents, Rates & Taxes (net of recoveries)	6.6	12.4	12.1	84.2	23.2
Advertising Cost	4.4	5.9	3.9	7.3	11.6
Administrative Costs	28.6	28.6	46.1	61.3	78.0
Airport Operator's Fees	5.3	5.4	6.1	6.3	6.4
Insurance Cost	2.6	2.4	2.5	3.5	5.9
Consumables	4.2	4.6	4.4	5.1	5.8
Other operating Cost	30.7	32.8	39.4	47.1	65.8
Working Capital Loan Interest	-	-	0.2	10.6	10.6
Financing Charges	2.4	2.6	1.0	1.0	1.1
ADF Loan Interest	-	-	-	59.2	34.5
Collection charges over DF*	-	-	-	-	-
Total	255.6	212.6	274.4	547.3	621.7

* - Refer discussion on collection charges from para 27.24 to para39.a.

Tentative Decision No23. Regarding operation and maintenance costs, mechanism for its allocation into aeronautical and non-aeronautical expenses & efficiency factor

23.a. **The Authority tentatively decided to accept the forecasts for 2012-13 and 2013-14 made by MIAL for the present. It decided to commission an independent study to assess the efficient operating costs of CSI Airport, Mumbai for the entire control period.**

23.b. **The Authority tentatively decided that, if the costs of efficient operation and maintenance, assessed in the independent study are lower than the values used by the Authority, then it will claw back this difference in the next control period commencing from 01.04.2014.**

Truing Up: 6. **Regarding items under operating expenditure**

6.a. The Authority further tentatively decided that the following factors be reviewed for the purpose of corrections (adjustments) to tariffs on a Tariff year basis

i) Mandated costs incurred due to directions issued by regulatory agencies like DGCA;

ii) Change in per unit rate of costs related to electricity and water charges as determined by the respective regulatory agencies;

iii) All statutory levies in the nature of fees, levies, taxes and other such charges by Central or State Government or local bodies, local taxes/levies, directly imposed on and paid for by MIAL on final product/ service provided by MIAL, may be reviewed by the Authority for the purpose of corrections (adjustments) to tariffs on a Tariff year basis. Furthermore, any additional payment by way of interest payments, penalty, fines and other such penal levies associated with such statutory levies, which MIAL has to pay for either any delay or non-compliance, the same would not be trued up. On the input side if MIAL has to pay higher input costs even on account of change in levies/ taxes on any procurement of goods and services, the same would not be trued up.

18. Taxation

18.1. MIAL, vide their submission dated 11.10.2011, submitted that

"The corporate tax for MIAL is the composite tax for all the services provided by MIAL. As per the methodology given in the Schedule I of SSA, the tax for Aeronautical services has been computed by grossing up the post tax return after adjusting the difference in depreciation as per Companies Act and Income Tax Act based on the formula given below:

*PAT = RB * WACC * Interest Cost*

Taxable Income= (PAT + Depreciation as per Companies Act - Depreciation as per Income Tax Act) / (1 - Tax rate)

*Tax = Taxable Income * Tax Rate"*

18.2. Accordingly, the corporate tax for Aeronautical Services for each year of the control period has been calculated by MIAL as follows:

Table 95: Summary of Corporate Tax as submitted by MIAL vide their initial submission dated 11.10.2011

In Rs crs	FY 10	FY 11	FY 12	FY 13	FY 14
Income Tax	179	202	224	283	325

18.3. Based on the subsequent revisions proposed by MIAL, the corporate tax for Aeronautical Services for each year of the control period has been calculated by MIAL in their tariff model as follows:

Table 96: Summary of revised Corporate Tax as submitted by MIAL in their tariff model for the determination of Target Revenue

In Rs crs	FY 10	FY 11	FY 12	FY 13	FY 14
Income Tax	201	214	223	258	300

Observations on Taxes

18.4. The Authority observed that in the approach adopted by MIAL, tax is being determined by grossing up the post tax return, which in turn is derived from Regulatory Asset Base. The Authority noted that tax calculated by the methodology adopted by MIAL is not based on the actual revenue earned in the respective years. Further as per Schedule 1 of

SSA, taxes to be considered in the determination of Target Revenue are "Corporate Taxes on earnings pertaining to Aeronautical Services". It is observed that the Income Tax Act, 1961 does not define the term "corporate tax". As per FAQ available on the website of the Income Tax Department (www.incometaxindia.gov.in) in reply to Q.6 it is stated that "when companies pay taxes under the Income Tax Act it is called corporate tax". In a further reply under Q.34, the department has clarified that "The tax to be paid by the companies on their income is called corporate tax".

18.5. As regards the tax calculation initially submitted by MIAL (presented in para 18.1), the Authority noted that MIAL's formulation for calculation of tax considers 'profit after tax' as one of the input factors. The Authority observed that 'profit after tax' is not a defined term in the SSA. Further the approach used by MIAL considers the target revenue for determination of corporate tax. This target revenue has not accrued to MIAL even in the historical three years of FY 10, FY 11 and FY 12. However the tax being an actual liability is to be based on the actual revenue earned or projected to be earned by MIAL. The Authority further observed that as defined in SSA, Corporate Taxes on earnings pertaining to Aeronautical Services implies that tax should be derived in straight forward manner starting from projected aeronautical revenue and considering applicable tax rates instead of using the 'gross-up' approach as adopted by MIAL.

18.6. In view of the above, the Authority proposes that tax, to be considered in the determination of ARR, should be based on the actual earnings pertaining to aeronautical services in respective years. Accordingly, the Authority sought from MIAL the value of income tax in case it is calculated on actual earnings pertaining to aeronautical services in respective years. In response, MIAL submitted the calculations for income tax pertaining to aeronautical services in the revised tariff model. The Authority noted that in this tax calculation, MIAL had considered actual / projected aeronautical revenue, operating expenses pertaining to aeronautical services, depreciation pertaining to aeronautical assets and interest expense and had considered the applicable tax rate. The Authority observed that the depreciation, considered by MIAL, had included depreciation on account of both aeronautical assets and Hypothetical Regulatory Base. The Authority is of the view that since Hypothetical Regulatory Base, to be determined in line with SSA, is of hypothetical nature and does not correspond to physical assets in the books of accounts of MIAL, depreciation on such assets should not be considered towards calculation of tax pertaining to aeronautical services. Accordingly the Authority made necessary adjustment in the calculation of tax pertaining to aeronautical services submitted by MIAL.

Tentative Decision No24. Regarding Corporate Tax

24.a. **The Authority tentatively decided to consider the actual corporate tax paid by MIAL (apportioned on operations from aeronautical services as estimated from regulatory accounts) for the year 2009-10, 2010-11 and 2011-12. For the balance period i.e., 2012-13 and 2013-14 the Authority tentatively decided to use the forecast of Corporate Tax payable on aeronautical services for tariff determination.**

24.b. **The Authority tentatively decided to review the actual corporate taxes on aeronautical services paid by MIAL, based on the audited figures as would need to be made available (separating for aero and non-aero assets / activities).**

Truing Up: 7. **Correction / Truing up for Tentative Decision No24**

7.a. ***The Authority tentatively decided to true up the difference between the actual corporate tax paid (separating for aero and non-aero assets / activities) and that used by the Authority for determination of tariff the current control period. The Authority proposes that this truing up will be done in the next control period commencing 01.04.2014.***

18.7. The impact of calculating tax based on actual earnings pertaining to aeronautical services on X factor would be as under:

Table 97: Sensitivity – Impact on X factor from calculating tax based on actual earnings pertaining to aeronautical services

Parameter	X Factor as per the Base Model	X Factor after change in assumptions
Calculating Tax based on actual earnings pertaining to aeronautical services	-873.36%	-806.68%

19. Revenue from Revenue Share Assets

19.1. MIAL, in their initial submission dated 11.10.2011, submitted that

"As given in the Schedule I of the SSA, 30% of the revenues from Revenue Share Assets (RSA) would go towards reducing the aeronautical charges while computing Target Revenue. Further the costs in relation to such revenue shall not be included while calculating Aeronautical Charges. Thus, this Multi-Year Tariff Proposal has been prepared based on the Shared Till as per SSA. Revenue Share Assets (RSA) have been defined in SSA as under:

"Revenue Share Assets" shall mean (a) Non-Aeronautical Assets; and (b) assets required for provision of Aeronautical related Services arising at the Airport and not considered in revenue from Non-Aeronautical Assets (e.g. Public admission fee etc.)."

19.2. MIAL submitted the forecasts of non-aeronautical revenues, together with explanations to support them. An overview of non-aeronautical revenue forecast made by MIAL (submission dated 11.10.2011) is as under:

Table 98: Summary of Revenue from Revenue Share Assets submitted by MIAL

(in Rs Crores)	FY10	FY11	FY12	FY13	FY14
Retail Licenses Revenue					
F&B	22.0	25.7	30.0	34.5	39.5
Flight Kitchen	10.5	16.2	17.4	18.3	19.3
Retail concession	11.0	24.6	29.4	33.7	61.9
Foreign exchange	23.4	26.9	28.3	29.5	30.7
Communication	20.5	37.8	34.8	35.8	24.2
Car Rentals & Taxi Service	5.3	6.8	7.9	9.1	15.7
Duty Free Shops	60.5	45.7	36.8	40.7	68.7
Hotel in T1C	-	-	-	-	-
Advertising Income	35.7	46.0	50.6	55.6	65.5
Car Parking	13.3	12.1	12.9	13.8	7.8
Ground Handling	26.9	39.4	49.4	43.7	45.1
Fuel Concession	73.2	80.0	89.9	97.4	104.8
Others	8.2	7.4	8.7	10.0	11.4
Total Retail Licences Revenue	310.5	368.5	396.0	422.3	494.5
Rent & Services Revenue					
Land Rent & Lease	7.0	28.6	24.8	30.1	31.5
Hanger Rent	3.6	3.6	3.9	4.1	4.5
Terminal Bld Rent	27.1	19.3	24.5	25.4	31.1
Lounges	20.5	20.1	23.8	29.3	32.6
Other Rental Incomes (Demurrage)	80.3	138.1	142.2	76.7	22.6
Cargo Bld Rent	16.9	36.4	18.8	20.2	21.6
Total Rent & Services	155.4	246.0	237.9	185.7	143.8
Cargo Revenue					

Domestic cargo	0.1	6.0	6.3	6.8	7.4
Terminal charges	76.9	94.9	101.9	68.6	28.9
Destuffing	12.8	16.3	17.7	11.9	5.0
Palatization	3.3	5.1	5.1	3.4	1.4
X-ray	11.9	15.2	15.2	10.2	4.3
Carting, packing and others	7.0	8.5	8.9	6.0	2.5
Perishable Cargo	-	-	2.1	2.8	3.0
Courier Revenue	8.5	7.9	8.2	5.6	2.3
Total Cargo & Courier Revenues	120.6	154.0	165.4	115.4	54.9
Total Revenue from Revenue Share Assets	586.5	768.5	799.3	723.5	693.2
Less: Revenue from Other than Revenue Share Assets (i.e. Non Transfer Assets)	4.8	5.1	5.6	6.1	6.4
Total Revenue from Revenue Share Assets for the purpose of Determination of 'X'	581.7	763.4	793.7	717.4	686.8

19.3. MIAL further submitted that the revenue from Revenue Share Assets has been estimated and projected as per the following:

"The revenues from Revenue Share Assets (RSA) include the revenue from lease rentals, license fees, space rents, various concessions and cargo handling services. Revenues from Fuel Concessions, Ground Handling Concessions and Cargo Handling have been considered as Revenues from Revenue Share Assets. Based on underlying revenue drivers / agreements / contracts, as applicable, the Revenue from Revenue Share Assets has been projected for the control period."

19.3.1. Lease Rentals, License Fee and Space Rent: MIAL, in its initial submission, stated that

"Lease Rentals, License Fee and Space Rent from land and space is expected to increase at a rate of 7.5% p.a. or as per existing agreement / MoUs."

19.3.2. Lounge Concessions: MIAL, in its initial submission, stated that

"The usage of lounges depends directly in proportion to the passenger traffic. The revenue per passenger in case of both the international passengers and domestic passengers is expected to grow in line with inflation."

19.3.3. Smoking Lounges Concessions: MIAL, in its initial submission, stated that

"Revenue of Rs 5 lakhs /month/lounge is considered."

19.3.4. Demurrage: MIAL, in its initial submission, stated that

"Demurrage projected to reduce gradually expecting importers to clear consignments expeditiously."

19.3.5. CUTE Concession: MIAL, in its initial submission, stated that

"This revenue is projected based on the contracts and estimated passengers."

19.4. MIAL, in its initial submission dated 11.10.2011, submitted the following on the rent and demurrage revenue, discussed in para 19.3.1 to 19.3.5 :

Table 99: Summary of Rent and Demurrage Revenue submitted by MIAL

Particulars (Rs in crs)	2009-10	2010-11	2011-12	2012-13	2013-14
Lease Rentals, License fee and Space Rent	50	83	66	74	82
Lounges	20	20	24	29	32
Demurrage	80	138	142	77	23
Total	150	241	232	180	137

19.5. The Authority sought auditor certificates for historic values till FY 2011 and the bases of projections for remaining years of the control period. Accordingly, MIAL furnished the auditor certificate for year-wise income from rent and services as under:

Table 100: Auditor certificate for year-wise income from rent and services

Particulars (Rs in millions)	2006-07	2007-08	2008-09	2009-10	2010-11	2011-12
Land Rent & Lease	178	223	186	181	277	371
Hanger Rent	8	9	20	44	44	43
Terminal Building Rent	182	210	248	151	193	276
Lounges	-	124	219	205	201	224
Cargo Building Rent	125	132	166	172	365	175
Other Rental Income (Demurrage)	557	833	834	803	1381	1684
Total	1050	1531	1673	1556	2461	2773

19.6. MIAL further submitted that the values certified in the auditor certificate are to be considered in the tariff model. The tariff model was updated to reflect the values in the auditor certificate.

19.7. Further, the Authority sought from MIAL the basis for projection of non-aeronautical revenue for FY 13 and FY 14. In response to the requirement for basis for projections, MIAL made the following revenue item wise submission:

19.7.1. Revenue from Land and Hangar: MIAL, vide their submission dated 31.07.2012, submitted that

"Revenue from Land is bifurcated between two categories:

(a) Revenue from Private Parties having contractual escalations @ 7.5% pa

(b) Revenue from NACIL having no contractual escalations"

19.7.2. MIAL also submitted the details of Revenue for FY 13 from various parties as under:-

Table 101: Details of projected revenue from land submitted by MIAL

Sl. No.	Description	FY 13		
		Total Area (sq.m.)	Annual License Fee amount (Rs in crs)	Avg Rent Rs per sq. m. per month
	Land lease			
1	NACIL and Cheffair	831,081	10.21	10.24
	Land lease – private			
1	Oil Companies	93,226	4.77	43
2	GSD Land, Flight Kitchen etc…	93,249	12.56	112
3	Porta Cabin	2,583	2.68	865
4	Access Road	3,738	0.57	126
5	Licensees who pay to AAI#	34,989	1.59	38
6	Licensees (legal cases)	320	-	-
7	Government	17,260	-	-

19.7.3. MIAL submitted a note for point no 5 in the table above along with the above details saying that

"# It may be noted that AAI is disputing these amounts and not paying to MIAL since these leases are not transferred to MIAL. If it is finally decided that MIAL is not entitle to receive these rentals, we would request the Authority to true up the charges to this extent."

19.7.4. In respect of revenue from Hangar, MIAL submitted the details of various institutions being the source of such revenue (provided in the table below) and stated that revenue from Hangar for FY 13 is projected to increase @ 7.5% pa.

Table 102: Summary of projected revenue from Hangar for FY13 submitted by MIAL

Sl. No.	Name of the Party	Area in sq. m.	Rate per sq. m. p.m. (projected)	Amount per annum (in Rs crs)
1	Taj Air	3,172	207	0.79
2	Essar	2,646	207	0.66
3	Reliance Industries	2,701	207	0.67
4	Raymond Ltd	1,660	207	0.41
5	Air Works	3,102	317	1.18
6	Indamar	2,291	316	0.87
7	Jet Airways	11,850	207	2.94
8	Air India	4,389	44	0.23
9	Naval logistics	2,393	92	0.27
	Total	34,203	195	8.01

19.7.5. Revenue from NACIL: MIAL, vide their submission dated 31.07.2012, submitted that

"Revenue per Sq mtr per month from Terminal building rent for NACIL has been calculated based on expected area to be given to NACIL and rate as per the contract. Details of area given to NACIL and its corresponding rates per sq mtr per month are as per the Annexure 6. It is expected that in case of new T2, NACIL would be given half of the existing area which it currently occupies in existing T2."

19.8. Revenue from Terminal Building Rent and Cargo Building Rent - MIAL, vide their submission dated 31.07.2012, submitted that

"it has projected the revenue from Terminal building rent to be increased by 7.5% p.a. A sample agreement has been attached as Annexure 7. As per the agreement Common Area Maintenance (CAM) charges for FY 12 and FY 13 are as under:

	License Fee per sq. m. per month	*CAM per sq. m. per month*
F Y12	*75.00*	*1574.00*
FY 13	*80.63*	*1692.05*
% increase in rate	*7.5%*	*7.5%*

"

19.8.1. Similarly MIAL have envisaged that revenue from Cargo building rent to be increased by 7.5% p.a. and have submitted a sample agreement in support of the same. MIAL also submitted the details of space allocated for rent at the cargo building to various agencies As per the agreement, Common Area Maintenance (CAM) charges for FY 12 and FY 13 are as under:

Table 103: Basis for CAM charges submitted by MIAL for FY 12 and FY 13

	License Fee per sq. m. per month	*CAM per sq. m. per month*
F Y12	*75.00*	*470.00*
FY 13	*80.63*	*505.68*
% increase in rate	*7.5%*	*7.5%*

19.9. Revenue from Other Rental Income (Demurrage) - MIAL have considered a reduction in the dwell time for clearance of cargo from their cargo terminals. The Authority sought the basis for such a reduction. MIAL, vide their submission dated July 31, 2012, stated as under:

"MIAL has envisaged that dwell time for clearance of Cargo would decrease by 20% and 30% in FY 13 and FY 14 respectively due to increased efficiency in Cargo operations and faster clearance of Cargo by Customs. Further Customs has also introduced RMS (Risk Management System) under which goods of major importers are cleared ¡n around 6-7 hours. In the month of June 2012, 68% of the cargo has been cleared under the RMS scheme. This has led to considerable reduction in dwell time."

19.10. MIAL, vide their submission dated 11.10.2011, submitted the basis for projection of concession revenues, which accrue to MIAL on account of concessions awarded for services including retail, food & beverage, catering, forex, ATM, IT & Communication, Car rental & hotel reservation, Duty free, Car parking as follows:

19.10.1. Retail Concessions -MIAL, in their submission dated 11.10.2011, stated that

"The revenue from retail stalls in the airport is influenced by the locations under retail shops. The retail area is divided between domestic and international terminals. The revenue per square meter is then calculated in the case of both domestic and international terminals separately for FY 11. This is expected to grow in line with

inflation. Revenue per square meter so arrived at is multiplied with the projected retail area for each year of the control period, to arrive at the revenue projections for retail concessions."

19.10.2. Food and Beverage (F&B) Concessions -MIAL, in its initial submission, stated that

"F&B caters primarily to the embarking passengers. Therefore, for the purpose of this projection, the revenue per embarking passenger is expected to grow in line with inflation. The revenue per embarking passenger is then multiplied with the total number of projected embarking passengers for that year to arrive at the revenue projections."

19.10.3. Catering Concessions - MIAL, in its initial submission, stated that

"This is dependent on the embarking passengers. No increase is expected in the revenue per embarking passenger under this head due to intense competition and fall in catering rates. Therefore, the total revenue from catering concessions is expected to increase in line with the growth in embarking passengers."

19.10.4. Forex Concessions: MIAL, in its initial submission, stated that

"The revenue from foreign exchange concession is directly related to international passenger traffic and projected to grow accordingly."

19.10.5. Automated Teller Machines (ATM) Concessions: MIAL, in its initial submission, stated that

"The revenue per ATM is expected to grow in line with contracts @ 12%. This along with the expected number of ATMs is used to arrive at the projection for revenue from ATMs. MIAL also submitted a sample agreement entered into by MIAL with the concessionaire."

19.10.6. IT and Communication Revenues: MIAL, in its initial submission, stated that

> "This is projected based upon existing contracts. The revenue from communication is reduced in FY 12 based on renegotiated contract. After this, the revenue is expected to remain constant."

19.10.7. Car Rental and Hotel Reservation Concessions: MIAL, in its initial submission, stated that

> *"Only the disembarking passengers avail the car rental and hotel reservation facilities. The revenue per disembarking passenger is expected to grow in line with inflation, For the New Common User Terminal, the revenue from the 25 counters is expected to be Rs 3 lakhs per counter per month initially."*

19.10.8. Duty Free Concession: MIAL, in its initial submission, have submitted as under:

> "Duty free revenue is projected as per existing agreement. Additionally, the increase *in revenue from new contracts to be entered into for New Common User Terminal is also considered once it is operational."*

19.10.9. Advertising Concession - MIAL, in its initial submission, stated that

> *"The revenue per site is projected to increase 10% YoY. Additionally, the revenue from promotional spaces is based on the current revenue generation."*

19.10.10. Car Parking Concession - MIAL, in its initial submission, stated that the Monthly Minimum Guarantee (MMG) of Rs. 1.15 Crs is expected to continue till FY 2012-13. MIAL submitted during discussions that after the development and operationalisation of multi-level car park, revenue from car parking will be in the form of revenue share from the selected concessionaire. Tentative date for commencement of operations of multi-level car park, as presented by MIAL, is September 2013.

19.10.11. **Ground Handling Concessions** – In respect of Ground Handling Concessions, MIAL have stated that the Revenues from the Ground Handling Concessions have been considered as per existing agreements with the concessionaires subject to

Minimum Annual Guarantee (MAO) or based on revenue share derived from revenue per ATM in FY 11 as the case may be, which is expected to grow annually at the rate of inflation i.e. 8.94% p.a.

19.10.12. **Fuel Concession** - In respect of Fuel Concession MIAL, in its initial submission, stated that:

> *"The revenue from Fuel Concession has been projected based upon growth in ATM alongwith FY 11 rate/Kl assumed to increase with WPI as per agreement with the Oil Companies (i.e. 7% for FY 12 and 5% p.a. thereafter). An application dated 28/09/2011 has already been filed before Honorable authority in terms of the order dated 17/08/2011 issued by Honorable AERA Appellate Tribunal for 7% increase in the rate of fuel concession fee loosely worded as Fuel Throughput Charge (FTC) w.e.f. 01/04/2011. Honorable Authority is requested to approve the revision in FTC for FY 12 as per the submissions made in the above letter at the earliest possible without linking the same to approval of MYTP."*

19.10.13. MIAL, in its initial submission dated 11.10.2011, have submitted details of the following Concession revenues:

Table 104: Summary of Concession revenues submitted by MIAL

In Rs crs	FY10	FY11	FY12	FY13	FY14
Retail Licenses					
Food & Beverages	22	26	30	34	39
Catering	11	16	17	18	19
Retail Concession	11	25	29	34	62
Foreign Exchange & ATMs	23	27	28	29	31
Communication	21	38	35	36	24
Car rentals and Taxi service	5	7	8	9	16
Duty Free	61	46	37	41	69
Advertisement	36	46	51	56	66
Aircraft Refueling	73	80	90	97	105
Car parking	13	12	13	14	8
Ground Handling	27	39	49	44	45
Others	8	7	9	10	11
Total	311	369	396	422	495

19.11. MIAL further submitted the auditor certificate for year-wise income from rent and services. The same is presented below:

Table 105: Auditor certificate for year-wise income from rent and services

In Rs Millions	FY07	FY08	FY09	FY10	FY11	FY12
Retail Licenses						
Food & Beverages	229	169	132	220	257	301
Flight Kitchen	-	7	33	105	162	228
Retail Concession	42	93	100	110	246	394
Foreign Exchange	106	132	177	213	243	345
Banking / ATM	18	10	15	22	26	46
Communication	43	78	116	205	378	365
Car rentals and Taxi service	23	24	34	53	68	88
Duty Free	185	235	746	605	457	458
Advertisement	180	390	518	357	460	564
Aircraft Refueling	69	936	699	732	800	829
Car parking	105	116	141	133	121	128
Ground Handling	124	166	256	269	394	528
Others	68	77	66	79	72	86
Total	1192	2433	3033	3103	3684	
Revenue from Non-transfer assets	30	39	54	48	51	57

19.12. MIAL further submitted that the values certified by the auditor are different from the values submitted by MIAL in their earlier submission and that the values as per the auditor certificate are to be considered in the tariff model. The tariff model was updated to reflect the values in the auditor certificate.

19.13. Further, the Authority sought from MIAL the basis for projection of non-aeronautical revenue for FY 13 and FY 14. In response to the same, MIAL provided revenue item wise bases of projections for FY 13 and FY 14, as presented below:

19.13.1. Growth in revenue of banks and ATMs - MIAL, vide their submission dated 31.07.2012, submitted that *"The revenue per ATM is expected to grow in line with contracts @ 12%."* MIAL also submitted a sample agreement entered into by MIAL with the concessionaire.

19.13.2. Revenue from Ground Handling Concession - MIAL submitted that

"Major revenue from Ground Handling concession are received from Cambata and Celebi details of which are as follows:

Name of the concessionaire	*MAG amount*	*Annual Guaranteed Fee (Additional)*	*Total*
Cambata	*15*	*1*	*16*
Celebi	*15*	*1*	*16*
	30	*2*	*32*

MIAL also submitted that relevant extract of the contract entered into with Cambata and Celebi.

19.13.3. Revenue from Fuel Throughput Charges: MIAL, vide their submission dated 24.07.2012, stated as under,

"MIAL had taken 7%, 6.54% and 6.54% increase in FY 12, FY 13 and FY 14 respectively for FTC, based on ceiling and floor level of agreed escalations with oil companies as per contract based upon WPI forecast. Since FY 12 has already elapsed without any increase in FTC rates, pending approval of AERA, MIAL has updated FY 12 FTC revenue based on actuals and taken arrears upto FY 12 to FY 13 (amounting to Rs. 5.81 crs.). MIAL has included the increased charges retrospectively from FY 12 in the MYTP since the increase is as per signed agreement with the oil companies and increase is pending only for the approval of the Authority.

MIAL had taken escalations in rate of 7%, 6.54% and 6.54% in FY 12, FY 13 and FY 14 respectively for FTC. There is ceiling of 7% and floor level of 5% agreed escalations with oil companies. Since the actual WPI for FY 12 is above these limits i.e. 8.96%, we request the Authority that the same should be considered for escalations for FY 13 and FY 14 as per agreement. MIAL has carried out this correction."

"In addition, MIAL have planned to concession out the proposed New Integrated Fuel Farm Facility and Into-Plane Services to a Joint Venture Company with three PSU oil companies, in which MIAL would have 25% stake. As all these future concessions are presently being planned with related financials and concession terms are being worked out, it shall not be possible to give the relevant cost and revenue details at this stage. However, since Hon'ble Authority has sent a format for providing information on various concessions vide its letter dated 03.11.2011, the details to the extent applicable/ available shall be forwarded to Hon'ble Authority soon."

19.14. As per MIAL's submission, there are some revenue items, which are currently under Minimum Annual Guarantee provisions of the respective contracts. The Authority sought from MIAL reasons for considering that the provisions related to MAG will continue to apply for these revenue items and not the provisions on revenue share based on concession fee.

19.15. In response to the same, MIAL have responded with revenue item wise details of projected revenue share and projected MAG amounts. MIAL submitted that

> *"A comparison has been made for earnings from MAG and revenue share for Revenue from Duty free, Ground Handling, Perishable Cargo and Domestic cargo. Revenue from MAG is envisaged to be higher as compared to Revenue share."*

Observations in respect of treatment of revenues from Revenue Share Assets (Non-Aeronautical Revenue)

19.16. The Authority observed that MIAL have considered the following revenue items under the non-aeronautical revenues in its MYTP submission:

Table 106: Treatment of revenues from Revenue Share Assets proposed by MIAL

Revenue head	Treatment
Retail Licenses Revenue	
F&B	Non – Aero
Flight Kitchen	Non – Aero
Retail concession	Non – Aero
Foreign exchange, Banks & ATM	
Bank/ATM	Non – Aero
Forex Revenue	Non – Aero
Communication	
DAS & IT Related	Non – Aero
CUTE Concession (SITA)	Non – Aero
Car Rentals & Taxi Service	Non – Aero
Duty Free Shops	Non – Aero
Hotel in T1C	Non – Aero
Advertising Income	Non – Aero
Car Parking	Non – Aero
Ground Handling	Non - Aero
Aircraft refueling	Non - Aero
Others	Non - Aero
Rent & Services Revenue	
Land Rent & Lease	Non - Aero
Hanger Rent	Non - Aero
Terminal Bld Rent	Non - Aero
Lounges	Non - Aero
Other Rental Incomes (Demurrage)	Non - Aero
Cargo Building Rent	Non - Aero

CUTE Counter Charges	Non - Aero
Cargo Revenue	
Domestic cargo	Non - Aero
Terminal charges	Non - Aero
Destuffing	Non - Aero
Palatization	Non - Aero
X-ray	Non - Aero
Carting, packing and others	Non - Aero
Perishable Cargo	Non – Aero
Courier Revenue	Non – Aero

19.17. Authority has examined MIAL's submissions on the revenue heads in the table above in terms of the nature of revenue accruing to MIAL in respect of these revenue heads. Authority's observations on the treatment of revenue from Cargo , Ground Handling, Fuel Throughput Charges and CUTE Counter Charges have been discussed in para 20 below. Other than these revenue heads, all other revenue heads have been considered as non-aeronautical revenue.

Observations on revenue from Demurrage

19.18. The Authority observed that MIAL had filed an appeal challenging the jurisdiction of the Authority in respect of determination of demurrage charges. This appeal has since been disposed of as withdrawn by the Hon'ble Tribunal vide Order dated 05.10.2012 (available on the Tribunal's website), wherein it has been stated:

> *"After the two senior advocates had argued the matter extensively, the learned counsel for the appellant seeks to withdraw the matter, in view of the stand taken by Shri Nanda appearing for AERA (on instructions from AERA). The stand is that AERA is going to pass a final tariff determination order shortly by the end of November, 2012. Under the circumstances, he feels that there would be no point in our considering the ad-hoc increase in tariff. He also says that all the questions now raised would be kept open while considering the final determination of tariff.*
>
> *Accordingly, the appeal is allowed to be withdrawn with the liberty that all the questions herein could be agitated at the stage of final determination of tariff. In the meanwhile, the order dated 05.01.2011 on the issue of demurrage shall remain in force.*
>
> *In view of this, the appeal stands disposed of as withdrawn."*

19.19. The Authority noted the above and further observed that the income classified by MIAL in their submission as Other Rental Incomes (Demurrage) is on account of demurrage charges being levied by MIAL on the cargo being processed in their domestic and international cargo terminal. MIAL in their submission has considered that since this income is of the nature of a rent being levied on the cargo, which occupies space in its cargo terminals, this income has been considered as part of the Rents & Services income.

19.20. The Authority noted that the definition of "Demurrage" as per the Airport Authority of India (Storage and processing of goods) Regulations, 1993 (hereinafter referred to as "the Regulations"), S. 2.2 (n) is as under:-

> *"2.2(n) "Demurrage" means the rate or amount of charges payable to the Authority by a shipper or consignee or carrier or agent or passenger for utilizing storage facility at Cargo Terminal, for storage of cargo, goods, unaccompanied baggage, stores, courier bags, express parcels, postal mail, etc. for extended period beyond the stipulated free storage period for clearance or removal from the Cargo Terminal of the Activity or of the Customs at the Cargo Terminal;"*

19.21. The Authority noted from the above definition that Demurrage is charged for utilisation of storage facility at cargo terminal, for storage of cargo, goods, unaccompanied baggage, stores, courier bags, express parcels, postal mail, etc. or in other words, Demurrage is charged for the Storage of Goods at the Cargo facilities extended by such service provider beyond the free period. Though the charged rate is higher after the expiry of the prescribed period, if the cargo is not moved out of the cargo facility area, nonetheless, the basic character of the demurrages remains that of a charge for utilisation of Cargo Facilities at an airport.

19.22. Any service provided for the cargo facility provided at an airport is an Aeronautical Service and hence the Authority is required under the AERA Act to determine charges (including demurrage charges) for such aeronautical services – by whatever name they may be called. As per the AERA Act, demurrage should come within the ambit of aeronautical service. Merely calling it a penal charge does not make it different from the underlying service being rendered.

19.23. In view of the above, the Authority has proposed that revenue accruing to MIAL from Demurrage (which MIAL have classified under Other Rental Incomes) should be clubbed with revenue from Cargo services. In other words, the nature of the service giving rise to the demurrage charge is also an aeronautical service on par with cargo service. As regards the classification of the revenue on account of this service accruing to the Airport Operator (based on who is providing this service), the Authority has separately discussed the treatment of revenue from cargo services in para 20 below.

Tentative Decision No25. Regarding demurrage charges

25.a. **The Authority tentatively decided that demurrage charges are towards provision of aeronautical service namely, cargo facility service and hence tariff for the same has to be determined by the Authority under Section 13 (1) (a) of the Act.**

19.24. The basis of projections for non-aeronautical revenues followed by MIAL in their MYTP submission for the current control period is presented below:

Table 107: Basis of Projections for non-aeronautical revenues by MIAL

Head	MIAL Basis
Retail Licenses Revenue	
F&B	Total Embarking Passenger Growth factor – CPI-IW
Flight Kitchen	Total Embarking Passenger
Retail concession	Growth factor – CPI-IW Change in Area
Foreign exchange, Banks & ATM	
Bank/ATM	Growth factor – 12% (Contractual)
Forex Revenue	No Growth factor Total International Passenger
Communication	
DAS & IT Related	Hard Coded Value based on contracts
CUTE Counter Charges	Rate fixed as per contract Total Embarking passenger
Car Rentals & Taxi Service	Total Disembarking Passenger Growth factor – CPI-IW
Duty Free Shops	MAG
Advertising Income	Growth factor – 10% No of sites
Car Parking	Hard Coded Numbers as per the contracts
Ground Handling	MAG Other revenue is increased with CPI-IW
Others	Total passenger Growth factor – CPI-IW

FTC	Total ATM Growth Factor – WPI (as per contract)
Rent & Services Revenue	
Land Rent & Lease	Land Leases (Private) Rent Growth factor – 7.5% Land Leases (Govt.) Rent Growth factor – 0%
Hanger Rent	Rent Growth factor – 7.5%
Terminal Bld Rent	Rent Growth factor – 7.5%
Lounges	Growth Factor – CPI-IW
Other Rental Incomes (Demurrage)	Growth Factor – WPI
Cargo Bld Rent	Rent Growth factor – 7.5%
Cargo Revenue	
Domestic cargo	Agreement with CONCOR
International cargo	As per MIAL RFP
Perishable Cargo	Agreement with CSC
Courier Revenue	Growth Factor – WPI

19.25. The Authority noted that MIAL have considered the following factors in projecting the non-aeronautical revenues under respective heads:

- Inflationary increase
- On account of increase in number of passengers
- Contract / Agreement with concessionaires
- Increase in the underlying factors such as number of sites for advertising and change in area for retail concession

19.26. The Authority noted that the above factors, as considered by MIAL, do not include real increase in the per unit non-aeronautical tariff. MIAL, during the discussions, mentioned that MIAL do not have a basis to consider a real increase in its non-aeronautical revenue and hence they have considered the inflationary increase not the real increase. The Authority has noted this comment.

19.27. The Authority is of the view that in the normal course of business, a real increase in revenue would reflect the ability of the operator to enhance the price of its goods in view of the prevalent market conditions including prevalent penetration levels and ability to enhance the same, traffic movement and demand and supply side factors.

19.28. Based on the above, the Authority proposes that it will consider the basis of projections used by MIAL for the non-aeronautical revenues, as presented in the paras above, in the expectation that the current levels of non-aeronautical revenues will serve as a floor level of such revenues and that in future, this floor level will be surpassed.

19.29. As regards projection of non-aeronautical revenue at CSIA over the remaining part of the control period, the Authority deliberated on the appropriate methodology, if any, for forecasting the non-aeronautical revenue. It, however, noted that the past growth of non-aeronautical revenue may not serve either as a benchmark or guide in making the forecast. This is because the new terminal at CSIA is likely to have a substantially different business context.

19.30. Furthermore, the expansion/modernisation of CSIA is not yet complete. After completion of the terminal building at CSIA, MIAL would be in a position to grant necessary concessions to vendors. The amount of non-aeronautical revenues that MIAL may be able to obtain at CSIA is, therefore, difficult to estimate.

19.31. Having regard to these considerations, the Authority considered that for the first control period it may consider the forecast of non-aeronautical revenue provided by MIAL as indicated above for determination of tariffs and true up the actual receipts from non-aeronautical revenue while determining tariffs for the next control period.

Tentative Decision No26. Regarding forecast of Revenue from Revenue Share Assets (non-aeronautical revenue)

26.a. **The Authority tentatively decided to retain the forecasts as proposed in the Non-Aeronautical Revenue.**

Truing Up: 8. **Correction / Truing up for Tentative Decision No26**

26.a. **The Authority also tentatively decided to true-up the actual non-aeronautical revenue at the time of tariff determination for the next control period subject to the projections by MIAL in respect of non-aeronautical revenue being treated as minimum / floor for the current control period.**

Revenue from Non-Transfer Assets

19.32. In their submission, MIAL have not included gross revenue from Non-Transfer Assets (assets other than Aeronautical and Non Aeronautical) towards cross-subsidisation of aeronautical costs while determining the target revenue.

19.33. The Authority noted that MIAL have termed the Non-Transfer Assets as "*Other than Revenue Share Assets".* MIAL, vide their submission dated 04.09.2012, submitted that revenue from other revenue share assets has not been used for subsidisation of aeronautical revenue. MIAL stated as under,

> *"In MYTP model, revenue from Other than Revenue Share Assets is subsumed in the "Revenue from Revenue Share Assets". Therefore as in the model, the same is to be excluded from the "Revenue from Revenue Share Assets" and only the net revenue (i.e. Revenue from Revenue Share Assets less Revenue from Other than Revenue Share Assets) should be used for subsidization of Aeronautical revenue."*

19.34. In response to the query seeking the basis for projection of revenue from other than revenue sharing assets, MIAL submitted the following details under three heads:

- Schedule 6 of OMDA, Part II Entry No 15 – Flight Catering Services
- Schedule 6 of OMDA, Part II Entry No 18 – Hotels & Motels
- Schedule 6 of OMDA, Part II Entry No 29 – Vehicle Fuelling Services

Table 108: Revenue from Other than revenue sharing assets submitted by MIAL

Rs in crs				**Projection**	
Revenue head / name of the party	**Revenue head**	**Description of the Area**	**Area in sq.m.**	**FY 13**	**FY 14**
Schedule 6 of OMDA, Part II Entry No 15 - Flight Catering Services					
Ambassador Flight Catering	Land Rent	Land near T2	15,000	0.98	1.05
Oberoi Flight Catering	Land Rent	Land near T2	22,000	1.44	1.55
Cheffair	Land Rent	Land for Flight catering	14,000	0.39	0.47
Indian Hotel (Taj Air Caterers)	Land Rent	Access Road for Flight catering	2,955	0.37	0.40
Indian Hotel (Taj Air Caterers)	Land Rent	Access Road for Flight catering	887	0.22	0.24
Schedule 6 of OMDA, Part II Entry No 18 - Hotels & Motels					
Batra Hospitality	Land Rent	Land near T1	30,047	0.85	0.85
Batra Hospitality	F&B	Revenue share on land		1.20	1.20
Asian Hotel	Land Rent	Land for beautification	415	0.05	0.05
Bharat Hotel	Land Rent	Approach road to hotel	558	0.14	0.15
Schedule 6 of OMDA, Part II Entry No 29 - Vehicle fuelling services					
IOCL	Land Rent	Retail petrol outlet near T2	2,700	0.18	0.20
IOCL	Land Rent	Retail petrol outlet near T1	1,170	0.08	0.09
IOCL	Land Rent	Retail petrol outlet	2,600	0.18	0.19

Rs in crs				Projection	
Revenue head / name of the party	**Revenue head**	**Description of the Area**	**Area in sq.m.**	**FY 13**	**FY 14**
		near Cargo			
Total			92,622	6.08	6.43

19.35. The Authority noted that in terms of Schedule 1 of the SSA, 30% of the gross revenue generated by MIAL from the Revenue Share Assets is to be used to subsidise the Target Revenue. The Revenue Share Assets is defined in the SSA as under,

> *""Revenue Share Assets" shall mean (a) Non-Aeronautical Assets; and (b) assets required for provision of aeronautical related services arising at the Airport and not considered in revenues from Non-Aeronautical Assets (e.g. Public admission fee etc.)".*

19.36. The Authority, further, had reference to OMDA for the definition of Non-transfer assets. The definition, provided in Section 1.1 of OMDA, is as follows,

> *"Non-Transfer Assets" shall mean all assets required or necessary for the performance of Non-Aeronautical Services as listed in Part II of Schedule 6 hereof as located at the Airport Site (irrespective of whether they are owned by the JVC or any third Entity), provided the same are not Non-Aeronautical Assets."*

19.37. The above definition provides that Non-Transfer Assets are not Non-Aeronautical Assets and hence the revenue from Non-Transfer Assets does not form part of Revenue Share Assets and thus are not to be considered for subsidisation of aeronautical costs. Hence the submission of MIAL on this count appears to be acceptable.

Tentative Decision No27. Regarding Revenue from Non-transfer assets

27.a. **The Authority tentatively decided to exclude the gross revenue from Non-Transfer Assets towards cross-subsidisation of aeronautical cost while determining the target revenue.**

20. Treatment of Cargo, Ground Handling and Fuel Throughput Revenues

20.1. MIAL have considered cargo as a non-aeronautical service and, vide their submission dated 11.10.2011, have submitted as under:

> *"Aeronautical Services and Non-Aeronautical Services are defined under OMDA and the same definitions have been used for the purpose of classification of services. Further, OMDA provides detailed list of various services and facilities that would form part of the Aeronautical Services and Non-Aeronautical Services in Schedule 5 and Schedule 6 respectively." MIAL have further submitted that "MIAL for the purpose of this filing, has adopted the asset by asset approach where in assets are identified as Aeronautical and Non-Aeronautical based on the provisions of OMDA and in case of common assets they have been allocated based on the approach described below. While the AERA Act defines the Aeronautical Services to include Cargo Handling, the same is explicitly included in Non Aeronautical Services under schedule 6 of OMDA. Therefore, for the purposes of calculating Aeronautical Charges as per SSA, the same has been considered as a Non Aeronautical Service."*

20.2. MIAL, vide their initial submission dated 11.10.2011, submitted the following details on the cargo revenue.

> *"Cargo revenue has been projected based on yield per ton for each category of charges in FY 2011. Increase in cargo tariff has been considered in December 2011, April 2012 and April 2013 based on 5 year CAGR of WPI of 6.54%."*

20.3. MIAL submitted the auditor certificates on cargo income till FY 2012.

Table 109: Auditor certificate on revenue from cargo services

Cargo Income (in Rs mn)	FY 07	FY 08	FY 09	FY 10	FY 11	FY 12
Terminal Charges	518	679	684	769	949	984
Destuffing	82	102	125	128	163	163
Palatisation	2	2	15	33	51	79
X-Ray	72	87	113	119	152	164
Other Cargo Income	15	28	43	70	85	89
Domestic Cargo Handling	-	-	-	1	60	107
Courier	-	-	-	85	79	94

20.4. Further MIAL, vide their submission dated 26.06.2012, mentioned that they have finalised concessionaires for outsourcing the Domestic cargo operations by July, 2012 and that the International cargo is also expected to be given out on concession from July 2012. MIAL submitted a revised tariff model to reflect the change in date of outsourcing of Domestic and International Cargo operations. In their submission dated 24.07.2012, MIAL submitted as under:

"Outsourcing of Cargo Operations

a) Domestic Cargo

The Company had invited Bids for Santacruz Air Cargo Terminal (SACT) Concession for a period of 10 years comprising of handling of domestic cargo and export perishable cargo. Three Bids were received from the qualified Bidders, viz. (1) Container Corporation of India Ltd. (CONCOR), (2) Consortium of Celebi Hava Servisi A.S. and NAS Aviation Services India Pvt. Ltd. (Celebi) and (3) Consortium of WFS Global Holding and Bird Consultancy Services Pvt. Ltd. (WFS-Bird). CONCOR emerged as the highest Bidder. The Revenue Share percentage payable by the concessioner shall be 42% and MAG shall be Rs. 7 Crs. p.a. subject to escalation of 5% per annum for each financial year. Commencement date for the same is expected to be 1st September 2012. Actual revenue from handling of domestic cargo by MIAL for the first quarter of FY 13 was Rs. 2.76 Crs.

b) International Cargo

Out of the six applicants who participated in the RFQ process, the following five applicants were found to be eligible for issue of RFP:

1. *Consortium of WFS Global Holding and Bird Consultancy Services Pvt. Ltd.*
2. *Celebi Hava Servisi A.S.*
3. *Cargo Service Centre India Pvt. Ltd.*
4. *Menzies Aviation PLC*
5. *Container Corporation of India Ltd.*

Accordingly, RFP was issued to the above applicants on March 2, 2012. Based on the queries/requests from Bidders for ensuring viability of the *project, amendments and clarifications were issued pursuant to the RFP. The last date for submission of Bids was 31st May 2012. MIAL is in process of evaluating the bids received and award concession for International cargo."*

20.5. MIAL also submitted the details related to expenses and head count for cargo operations, which are as under:

a) Expenses related to Cargo handling

Table 110: Summary of expenses related to Cargo handling submitted by MIAL

In Rs. Crs.)	FY 10	FY 11	FY 12	Apr 12 - Jun 12
Employee Cost	5.04	7.45	10.40	3.34
Repair & Maintenance Expense	1.65	1.36	3.30	1.46
Advertisement Expense	0.03	0.03	0.20	0.02
Administrative expenses	1.82	2.70	7.43	2.54
Insurance Expense	0.25	0.23	-	
Operating Expenditure	12.93	16.16	20.47	5.57
Rent, Rates and Taxes	-	-	0.06	0.03
Consumable Spares	-	-	0.21	0.09
Total	21.72	27.92	42.06	13.05

b) Head Count

Auditor's certificate (in original) for the Head Count for Cargo Operations is as follows:

	FY 10	FY 11	FY 12
Head Count (Nos)	81	114	149

20.6. MIAL, vide their submission dated 08.08.2012, submitted the details of cargo assets as follows:

1. Details of Fixed Assets- Cargo

Authority has asked for year-wise details of assets capitalised for Cargo Operations: Details of Fixed Assets capitalised for Cargo as on FY 10 (cumulative upto March 10) are as under:

Assets Class	Gross Block (Rs Crs.)			Depreciation (Rs Crs.)			Net Block (Rs Crs.)
	Opening Gross Block	Additions	Closing Gross Block	Opening	During the year	Closing	as at 31.03.2010
Buildings	19.19	18.62	37.82	0.54	1.18	1.73	36.09
Compute Software	-	-	-	-	-	-	-

Assets Class	Gross Block (Rs Crs.)			Depreciation (Rs Crs.)			Net Block (Rs Crs.)
	Opening Gross Block	Additions	Closing Gross Block	Opening	During the year	Closing	as at 31.03.2010
Computers	0.24	-	0.24	0.06	0.04	0.10	0.14
Furniture & Fixtures	0.25	0.36	0.61	0.03	0.06	0.08	0.52
Office Equipments	0.62	0.60	1.21	0.10	0.07	0.17	1.04
Plant & Machinery	2.74	1.09	3.83	0.73	0.40	1.12	2.71
Total	23.05	20.67	43.72	1.46	1.75	3.21	40.50

Details of Fixed Assets for Cargo as on FY 11 are as under:

Assets Class	Gross Block (Rs Crs.)			Depreciation (Rs Crs.)			Net Block (Rs Crs.)
	Opening Gross Block	Additions	Closing Gross Block	Opening	During the year	Closing	as at 31.03.2011
Buildings	37.82	0.48	38.29	1.73	1.30	3.02	35.27
Compute Software	-	0.14	0.14	-	0.01	0.01	0.13
Computers	0.24	0.04	0.28	0.10	0.04	0.15	0.13
Furniture & Fixtures	0.61	0.15	0.75	0.08	0.14	0.22	0.53
Office Equipments	1.21	0.05	1.26	0.17	0.13	0.30	0.96
Plant & Machinery	3.83	1.26	5.10	1.12	0.41	1.53	3.57
Total	43.72	2.11	45.83	3.21	2.02	5.23	40.59

Details of Fixed Assets for Cargo as on FY 12 are as under:

Assets Class	Gross Block (Rs Crs.)			Depreciation (Rs Crs.)			Net Block (Rs Crs.)
	Opening Gross Block	Additions	Closing Gross Block	Opening	During the year	Closing	as at 31.03.2011
Buildings	38.29	8.45	46.75	3.02	1.47	4.49	42.25
Compute Software	0.14	-	0.14	0.01	0.02	0.03	0.11
Computers	0.28	0.08	0.36	0.15	0.05	0.19	0.16
Furniture & Fixtures	0.75	1.64	2.40	0.22	0.20	0.43	1.97
Office Equipments	1.26	0.09	1.35	0.03	0.13	0.44	0.91
Plant & Machinery	5.10	3.31	8.41	1.53	0.70	2.23	6.18
Total	45.83	13.57	59.40	5.23	2.57	7.81	51.59

Details of Fixed Assets for Cargo as on 30.06.2012 are as under:

Assets Class	Gross Block (Rs Crs.)			Depreciation (Rs Crs.)			Net Block (Rs Crs.
	Opening Gross Block	Additions	Closing Gross Block	Opening	During the year	Closing	as at 30.06.2012
Buildings	46.75	-	46.75	4.49	0.39	4.89	41.86
Compute Software	0.14	-	0.14	0.03	0.01	0.04	0.10
Computers	0.36	-	0.36	0.19	0.01	0.21	0.15
Furniture & Fixtures	2.40	-	2.40	0.43	0.05	0.48	1.92
Office Equipments	1.35	-	1.35	0.44	0.04	0.47	0.88
Plant & Machinery	8.41	0.22	8.63	2.23	0.22	2.45	6.18
Total	59.40	0.22	59.62	7.81	0.72	8.53	51.09

20.7. Revenue from Perishable Cargo: As regards the revenue from perishable cargo, MIAL vide their submission dated 31.07.2012, submitted that this has been outsourced to Cargo Service Centre India Pvt Ltd. MIAL and stated as under:

> *"Cargo Service Centre India Private Limited (CSC), started Cargo Handling Services at the Perishable Cargo Terminal at CSI Airport, Sahar Cargo Complex from FY 12. MIAL receives higher of MAG (Minimum Annual Guarantee) and Revenue Share from CSC. However till FY 15 ¡t is envisaged that MIAL would receive only MAG considering level of operations in the initial years and higher MAG." MIAL provided the Agreement entered with CSC attached as Annexure 10 in their submission.*

20.8. Further, vide their submission dated 08.08.2012, MIAL submitted that

> *"Authority has asked for agreement copy entered with Cargo Service Centre (CSC) for Perishable Cargo revenue. Copy of amended agreement entered with CSC is attached as Annexure 1. It may be noted that as per this agreement start date was 01.04 .2011 though actual billing for fee started from -16.05.2011 since facility became operational from 16.05.2011."*

20.9. Ground Handling – In respect of the revenue from Ground Handling services, MIAL, vide submission dated July 31, 2012, submitted relevant extracts of the contract entered with Cambata and Celebi and stated as follows:

> *"…revenue from Ground Handling concession are received from Cambata and Celebi, details of which are as follows:*

Name of the concessionaire	*Minimum Annual Guarantee amount*	*Annual Guaranteed Fee (Additional)*	*Total*
Cambata	*15*	*1*	*16*
Celebi	*15*	*1*	*16*
	30	*2*	*32*

"

20.10. MIAL have also submitted a comparison of potential revenue share in FY 13 and FY 14 and MAG in the respective years to present that they will continue to get MAG till FY 14.

Observations in respect of treatment of revenues from Cargo & Ground Handling services:

20.11. The Authority in its Order No 3/2012-13 dated 24.04.2012 (DIAL Tariff Determination Order) has extensively dealt with the issue of treatment of revenue from Cargo and Ground Handling in respect of DIAL (paras 21.6.18 to 21.6.27 refers). It had also discussed the provisions of the SSA entered into between the Government of India and DIAL as well as the OMDA entered into between AAI and DIAL. It had stated therein that the revenue in the hands of the airport operator on account of rendering Cargo and Ground Handling services (being aeronautical services as per the AERA Act) by himself would be treated as aeronautical revenue. However, if the airport operator has outsourced these services to a third-party concessionaire (which may or may not include JV), the revenues which the airport operator would receive from such third-party concessionaire would be treated as non-aeronautical revenues. While arriving at this distinction and categorisation the Authority had gone into the relevant provisions of the AERA Act as well as the two agreements mentioned above.

20.12. As per the AERA Act aeronautical services, namely, Ground Handing, Cargo Facility and Supply of Fuel to the aircraft are defined as aeronautical services under Section 2(a) of the Act. Further, under Section 13(a) of the Act, the Authority is required to determine the tariff for aeronautical services, taking into consideration, inter alia, the *"concessions offered by the Central Govt. in any agreement or memorandum of understanding or otherwise"* (sec 13(1)(a)(vi) and any other relevant factors [sec 13(1)(a)(vii].

20.13. The Authority, therefore, while arriving at the above-mentioned approach of treatment of revenue from Cargo and Ground Handling services had taken into account these provisions of AERA Act, noting that the Act specifies cargo service as an aeronautical service and thus has to be regarded as such. The Authority is also cognizant of the fact that both SSA and OMDA clearly mention formation of "Regulatory Authority" in OMDA and "Economic Regulatory Authority" in SSA so that the bidders were fully aware of this intention of the Government at the time of the bidding process.

20.14. The Authority had issued its consultation paper in respect of tariff determination of Delhi International Airport on 03.01.2012. In response to this paper, the Government had issued a letter No. AV24032/4/2012-AD dated 09.03.2012 to the Authority recognising that Cargo and Ground Handling services are defined as aeronautical services in the Act while they are categorised as non-aeronautical services under OMDA and further stating that AERA should adhere to the provisions of OMDA.

20.15. After going through the above-mentioned provisions in the Act, SSA, OMDA as well as the Government's letter dated 09.03.2012, the Authority had given its decision in detail in Para 24 of the DIAL Tariff Determination Order, noting that:

> *"The MoCA have commented on this approach stating, inter alia that the Authority should adhere to the relevant provisions of the contractual agreements in the process of determination of tariff. The Authority infers from the Ministry of Civil Aviation's (MoCA) letter No.AV.24032/4/2012-AD, dated 09.03.2012, that according to MoCA's interpretation revenues from Cargo and Ground Handling services accruing to the airport operator should be regarded as non-aeronautical revenues, regardless and irrespective of whether these services are provided by the airport operator himself or concessionaire (including JV) appointed by the airport operator."*

20.16. The Authority had in that order Order No 3/2012-13 dated 24.04.2012 also stated that *"the above inference of the Authority is being brought to the notice of the Government"*. The Authority further decided that *"Depending on the confirmation of the Government on the treatment of revenues from Cargo and Ground Handling services, the Authority would duly consider the matter and the correction/truing up as appropriate would be considered in the next control period commencing from 1 April, 2014."*

20.17. Thereafter, MIAL vide its letter no. MIAL/CEO/9 dated 10.05.2012 requested the MoCA to confirm the above-mentioned inference of the Authority with respect to the interpretation of the Government's letter dated 09.03.2012. The Government asked for the comments of the Authority on the letter of MIAL. It also asked what specific issues on which clarification/confirmation was requested by the Authority from the Government. The Authority gave its detailed comments vide its letter no AERA/20010/MYTP/MIAL/2011-12/Vol.III/1342 dated 03.09.2012 to the Government giving its detailed reasoning and logic for making a distinction between the nature of the revenue from Cargo services if these are provided by the airport operator himself (the nature of the revenue will then be aeronautical revenue) as contrasted from its nature when the airport operator does not provided it himself but concessioned it out to a third party (in this case the nature of the revenue will be non-aeronautical revenue). The Government in its response to these letters replied vide letter No.AV.24032/04/2012-AD dated 10.09.2012, inter alia, stating as under:

> *" ……revenues from Cargo and Ground Handling services accruing to the airport operator should be categorized as non-aeronautical revenues as provided under the OMDA. This categorization is regardless and irrespective of whether these services are provided by the airport operator himself or through concessionaires (including JV appointed by the airport operator). The same clarification holds good even for CSI Airport, Mumbai as OMDAs of both the airports are identical."*

20.18. In this letter, the Government has also observed that:

> *"……basic contention of AERA is that revenue from these (cargo and ground handling) services would be treated as aeronautical revenue if these services are provided by the airport operator himself and they would be treated as non-aeronautical revenue if they are provided by a third party through outsourcing contract, license etc".*

The Government has however stated that

> *"..this argument of AERA of AERA is not supported either by AERA Act or by OMDA. As per Schedule-6 of OMDA of Mumbai Airport, these services are classified as non-aeronautical. Section 13(1)(a)(vi) of the AERA Act clearly states that concessions offered by the Central Government in any*

Agreement or Memorandum of Understanding or otherwise will have to be taken into consideration by AERA while determining the tariff".

The letters received from the Ministry and the Authority's response in this matter is placed at **Annexure – VI** collectively.

20.19. The Authority has carefully considered the views and contents reflected in the letter by the Government. As already indicated, it had given detailed consideration both to the AERA Act as well as provisions in SSA/OMDA and only thereafter had made the distinction that revenues at the hands of airport operator from services of Cargo and Ground Handling need to be regarded as aeronautical revenue if these services are provided by airport operator himself. If, however, airport operator were to concession out the services to a third party, the revenues in the hands of the airport operator from such third party concessionaires (which would be in the nature of royalty, revenue share, rentals or dividends, etc) should be regarded as non-aeronautical revenues.

20.20. To understand more completely the rationale behind this approach, Authority is giving below its analysis of the various definitions both in SSA as well as OMDA and how the Authority has taken both these documents into consideration along with the Act to arrive at its decision.

20.20.1. ***Revenue Target:*** The Authority had noted that under Schedule-I of the SSA, various components of revenue target have been given. One of the components is *"30% of gross revenue generated by the JV Company (MIAL) from the Revenue Share Asset"*, and that *"the costs in relation to such revenue shall not be included while calculating aeronautical charges"*. The Schedule also defines *"Revenue Share Asset"* as meaning (a) non-aeronautical assets: and (b) assets required for provisions of aeronautical related services arising at the airport and not considered in revenues from non-aeronautical assets (e.g. Public Admission Fee, etc.). Hence in order that a revenue stream qualifies to be reckoned at 30% towards the "Revenue Target", such a revenue stream should be generated by the "revenue share asset".

20.20.2. ***Non-aeronautical assets***: These are defined in OMDA as under:

"Non-Aeronautical Assets" shall mean:

All assets required or necessary for the performance of Non-Aeronautical Services at the Airport as listed in Part I of Schedule 6 and any other services mutually agreed to be added to the Schedule 6 hereof as located at the Airport (irrespective of whether they are owned by the JVC or any third Entity); and

All assets required or necessary for the performance of Non-Aeronautical Services at the Airport as listed in Part II of Schedule 6 hereof as located at the Airport (irrespective of whether they are owned by the JVC or any third Entity), to the extent such assets (a) are located within or form part of any terminal building; (b) are conjoined to any other Aeronautical Assets, asset included in paragraph (i) above and such assets are incapable of independent access and independent existence; or (c) are predominantly servicing/catering any terminal complex/cargo complex.

20.20.3. ***Non Aeronautical Services***: Part I of Schedule 6 of OMDA mentions Cargo Handling and Cargo Terminals as well as Ground Handling services as non-aeronautical services. The OMDA defines non-aeronautical services to mean such services as are listed in Part I and Part II of Schedule 6 of OMDA.

20.20.4. ***Asset Classification:*** Under AERA Act, Cargo service is an aeronautical service hence the asset which generate and are capable of giving this service would be required to be categorised as aeronautical assets. If these assets are aeronautical assets, they are not the revenue share assets within the definition of the SSA. Hence the gross revenues generated from these assets (which are not revenue share assets) cannot be subject to only 30% share. However, in this case, the costs associated in generating any such aeronautical revenues (excluding the revenue share to AAI which is expressly prohibited) would also be considered as a cost.

20.20.5. ***Revenue Classification:*** From another standpoint, the Authority has considered the nature of the service (namely, Cargo and Ground Handling) when provided by the airport operator himself as contrasted when it is provided by a third party concessionaire. When the airport operator himself is providing the Cargo service, he is providing an aeronautical service and hence the revenue in his hands from such a service is aeronautical revenue. The airport operator is, in this case, the regulated entity for provision of the cargo service. When the airport operator concessions out Cargo/Ground Handling service to a third party, a view could be taken that it is again the Airport Operator, who is "causing the cargo service (i.e. aeronautical service) to be provided" and hence the revenue in the hands of the Airport Operator should, in this case, also be regarded as aeronautical revenue. However, for clarity in implementation, the Authority has in case of the cargo service being outsourced, the Airport Operator himself is not directly providing the aeronautical service, which is then directly provided by the concessionaire (also called the Independent Service Provider). The Airport operator in this view is not the regulated entity for the Cargo/Ground Handling service, but the third party concessionaire (or independent service provider) becomes the regulated entity since the independent service provider is directly providing aeronautical service. Hence in this alternative view, the revenues that the airport operator receives from the third-party concessionaire are not treated as aeronautical revenues but non-aeronautical revenues of which 30% is reckoned towards determination of aeronautical charges (without any cost pass through). This view has also the advantage of keeping the revenue streams in the hands of the entity directly providing the aeronautical service (the Airport Operator or the third party concessionaire) distinct and tractable.

20.20.6. ***Regulated Entity****:* The entity that provides an aeronautical service is the regulated entity and the revenue at the hands of such an entity is aeronautical revenue. If the cargo and ground handling services are provided by the airport operator himself, then he becomes the regulated entity. If on the other hand, the airport operator has concessioned out these services to a third party, then that third party becomes the regulated entity (and not the airport operator).

20.21. The Authority observes that this is a reasonable classification to make a distinction between the nature of the revenue derived by the airport operator under these two different modalities of rendering the aeronautical services viz. cargo or ground handling and hence the Authority came to the conclusion that while discharging its functions under the AERA Act, it has remained within the mandate of the Act and given appropriate consideration to concessions offered by the Central Govt. (in this case SSA) as well as any other factor relevant for this factor (which in this case is OMDA).

20.22. The Authority has always given due consideration to the concession agreements of Central Government as well as any other relevant material as required by section 13(1)(a)(vi) and sec 13(1)(a)(vii) of the Act. While specifically addressing the issue of tariff determination in Delhi and Mumbai and more particularly, the issue of treatment of revenue from Cargo and Ground Handling service at these two airports, the Authority has also appropriately taken into considerations the concessions offered by the Central Govt. (SSA) as well as other relevant factors (OMDA). The Authority has already stated this aspect in its, Guiding Principles. The reading of Clause 13(1)(a)(vi) and 13(1)(a)(vii) that the Authority should take into consideration the concession offered by the Central Government or any other factor which may be relevant for the purposes of this Act, in the opinion of the Authority, does not indicate that these documents should be accorded primacy over the provisions of the Act, but that these documents would need to be taken into account while determining tariff for aeronautical services.

20.23. The issue of different treatment in OMDA and the Act was recently commented upon by CAG in its Report No. 5 of 2012-13. The Ministry in its response had recognised this difference and clarified as under:

> *"2.1 Conflict between OMDA and AERA Act in defining aeronautical and non-aeronautical services:*
>
> *OMDA pre-dates AERA Act:*
>
> *The non-aeronautical services mentioned under OMDA were part of the bidding process. It is totally absurd to say that this provision was made for giving undue advantage to DIAL. Had that been the case, AERA Act should have been enacted to match the provisions of OMDA. Instead of undue benefit to DIAL, inclusion of services which were mentioned as non-aeronautical in OMDA, as aeronautical in AERA Act, brings transparency in setting of these charges, which would ultimately benefit the users."*

20.24. The Authority has felt that this response of the Government is indicative of its recognition that after passing of the AERA Act, cargo and ground handling services would need to be reckoned as aeronautical services. Once this is done and if the cargo service is provided by the airport operator himself, the provisions of SSA and OMDA themselves would not permit the assets rendering these services to be the "Revenue Share Assets" for the purpose of taking only 30% of the revenue from these assets towards determination of aeronautical tariffs. Taking these revenues as aeronautical would lower the aeronautical charges and ultimately benefit the users.

20.25. To summarize, therefore, the Authority's view of treating revenues from Cargo services at the hands of the airport operator as Aeronautical revenue if such a service is provided by the airport operator himself but treating revenues at the hands of the airport operator from the third party concessionaire, whom he may concession out the Cargo service to, as *Non-aeronautical* is supported by what according to the Authority, was a proper and harmonious analysis of the provisions of the Act as well as those of SSA and OMDA.

20.26. The Government has however stated in its letter No.AV.24032/04/2012-AD dated 10.09.2012 referred to above that, the revenues from Cargo and Ground Handling services accruing to the airport operator should be categorised as non-aeronautical revenues as provided under OMDA, and that this categorisation is regardless of whether airport operator himself provides these services or concessions them out. The interpretation of the Govt., of the provisions of OMDA is on the issue of revenues from the Cargo and Ground Handling Services accruing to the airport operator is different from that of the Authority. The substance of the Government's interpretation is that the revenues accruing to the airport operator (during the period he was himself rendering what according to the Act is an aeronautical service) be reckoned at 30% of such gross revenues. The Authority has noted that the SSA is executed by the Government with MIAL and further that OMDA is executed between AAI (which is under the MoCA) and MIAL, and the Authority has noted the Government's interpretation on this issue. The implication for tariff determination of this interpretation of the Government is given below:

20.26.1. After the issue of the DIAL Tariff Determination Order, MIAL have given its MYTP along with Annual Tariff Proposal (ATP) during this period and the figure of cargo revenues in the hand of MIAL during the period it was rendering this service (i.e., 01-04-2009 till 31st Sep/Oct, 2012) have become available.

20.26.2. During the first 3 ½ years of the current control period (i.e. from 1st April, 2009 till September-October, 2012), the total revenue from Cargo service being provided by MIAL directly is approximately Rs. 998.62 crores. The corresponding expenditure in the hands of MIAL towards provision of this service is Rs. 123.23 crores. Under AERA's revenue recognition approach and interpretation, therefore, the balance of Rs. 875.34 crores would be reckoned as aeronautical revenue for the purposes of determination of aeronautical tariffs in respect of CSI Airport. Under the interpretation of the Government (vide its letter of 10.09.2012) 30% of the gross cargo revenue i.e. Rs. 998.62 crores, i.e, approx. Rs. 299.6 crores would be reckoned towards determination of aeronautical tariff instead of Rs. 875.34 crores, a difference of Rs. 575.80 crores. While considering the Annual Tariff Proposals, the Authority has also examined the impact of the above alternative interpretations on the 'X' factor as well as actual tariffs as below:

20.26.2.a. Based on reckoning Rs. 875.34 crores towards aeronautical tariffs, the "CPI-X" factor comes to 75.64%. Taking CPI at 9.4% (RBI forecast), the "X" factor comes to (-)66.24%. Alternatively, based on the reckoning of Rs. 299.60 crores towards aeronautical tariffs, the "CPI-X" comes to 160.96%. In this case the "X" factor is calculated at (-)151.56%.

20.26.2.b. Keeping the proposed increase in Landing, Parking and Housing charges as indicated by MIAL (for example, between 100% to 120% for international landing and 40% for domestic landing), and also adopting the same ratio of 1:2 between departing domestic and international passengers as proposed by MIAL, the tentative assessment of required UDF considering the date of levy of UDF as 01.01.2013 is as under:

Table 111: Impact on X - Factor and UDF based on treatment of cargo revenue

Treatment of revenue from cargo in the hands of Airport Operator	"X" factor	UDF Domestic per PAX in Rs.	UDF International Per PAX in Rs
Aeronautical	(-)66.24%	65	130
Non-Aeronautical	(-)151.56%	257	513

Tentative Decision No28. Regarding treatment of Revenue from Cargo services

28.a. **The Authority has noted the Government's confirmation that the revenue from services of cargo and ground handling in Delhi and Mumbai be regarded as non-aeronautical revenue in the hands of the respective Airport Operators, irrespective of whether these services are provided by the Airport Operator itself or concessioned out to third parties. It accordingly presents the calculation of X-factor as well as effect on tariff for the current control period (refer Table 111).**

Treatment of Fuel Throughput Charges

20.27. MIAL in their tariff proposal has considered Fuel Throughput Charges (FTC) as non-aeronautical revenue. MIAL submitted that

> *"FTC should be treated Non-aeronautical revenue for the purpose of tariff determination considering the views / decisions of the Authority that services such as Cargo Handling, Ground Handling and Into-plane not being provided by the Airport operator has been considered as Non — Aeronautical. FTC is a consideration for concession given to Oil Companies and no services are being provided by the Airport Operator to Oil Companies. AERA has also decided that Oil Companies are only selling ATF to the Airlines and not providing any services and therefore will not be covered under the Aeronautical services, hence FTC received by MIAL should not be considered as an Aeronautical charge."*

Observations in respect of treatment of revenues from and proposed increase in Fuel Throughput Charges

20.28. MIAL have considered the FTC as non-aeronautical for the purpose of tariff determination considering that it is a fee/charge for concession given to oil companies and no service is being provided by the airport operator to the oil companies. MIAL, in their submission dated 24.07.2012, submitted that they "*had taken escalation in rate of 7%, 6.54% and 6.54% in FY 12, FY 13 and FY 14 respectively for FTC. There is ceiling of 7% and floor level of 5% agreed escalations for FY 13 and FY 14 as per agreement."* Further, MIAL have also stated that

"…. FTC should be treated Non Aeronautical revenue for the purpose of tariff determination considering the views / decisions of the Authority that services such as Cargo Handling, Ground Handling and Into-plane not being provided by the Airport Operator has been considered Non-Aeronautical. FTC is a consideration for concession given to Oil Companies and no services are being provided by the Airport Operator to Oil Companies."

20.29. The Authority notes that under Entry 17 of Schedule 5 of the OMDA a specific mention of *"common hydrant infrastructure for aircraft fuelling services by authorised providers"* is mentioned as an aeronautical service. There is no mention pertaining to fuel supply in Schedule 6 of OMDA defining non-aeronautical service. Further the Authority also notes that mere establishment of Common hydrant infrastructure alone does not comprise any service unless the concerned fuel hydrant gets appropriate fuel into it. Hence the activity of populating the fuel hydrant infrastructure with appropriate fuel forms an integral and inalienable part of the chain of supply of fuel to the aircraft at the airport. The supply of fuel in this case, i.e., entry of fuel into the CSI Airport, Mumbai is entirely in the control of MIAL, the Airport Operator and thus, MIAL becomes a service provider in the chain of supply of fuel to the aircraft at the CSI Airport, Mumbai.

20.30. AERA had also noted the submission made by MIAL in its letter dated 20.10.2010 on the issue of provisions in OMDA. MIAL had stated that the list of non-aeronautical services in Schedule 6 of OMDA does not include the revenue stream namely "common hydrant infrastructure for aircraft fueling service by authorised providers". It has, however, added that "Schedule 6 of OMDA listing non-aeronautical services is not an exhaustive list. It does not cover revenues from advertisement concession, which does not mean advertisement concession revenue becomes aeronautical revenue. MIAL has also averred that the common hydrant infrastructure *"is no doubt directly related to supply of fuel at airport but it is distinct and separate charge".*

20.31. The Authority is of the view that the example of advertisement concession as not finding mention in Schedule 6 of OMDA with reference to "fuel throughput charge" is an inappropriate example. Schedule 6 of OMDA defines non-aeronautical services to mean *"the following facilities and services (including Part I and Part II)"*. The Authority's decision to include fuel throughput charge as relating to an aeronautical service is not on account of its inclusion or non-inclusion in Schedule 6 of OMDA. Its decision is based on the legal provisions of AERA Act that treats fuel supply as an aeronautical service. Coming to the advertisement concession, the advertisement service is not defined as aeronautical service in the AERA Act. Hence, the Authority would not be inclined to include advertisement service as an aeronautical service.

20.32. On the other hand, the Authority notes that the facilities and service of common hydrant infrastructure is mentioned in Schedule 5 of OMDA under the caption *"a more detailed list of the above facilities and services would include the following"*. The Authority also notes that entry 11 of Schedule 5 of aeronautical services states that "any other services deemed to be necessary for the safe and efficient operation of the airport" to mean provision of aeronautical service. The Authority therefore does not find any warrant in Schedule 6 of OMDA to indicate that OMDA regards the fuel throughput charge as a non-aeronautical charge or revenue. On the contrary, Schedule 5 of OMDA clearly indicates that aircraft fueling services and particularly the common hydrant infrastructure is an aeronautical service. And to the extent, it is provided by the airport operator, the revenues arising from such fuel supply would be regarded as aeronautical revenues in the hands of the airport operator.

20.33. The Authority further noted the submissions made in this letter of 20.10.2010 from MIAL, according to which MIAL stated that,

> *"Assuming, without admitting, that by virtue of AERA Act, even throughput charge is Aeronautical Revenue, even then, by virtue of concession agreement (SSA) executed between GOI and MIAL, it has to be seen that MIAL is not put to an economic jeopardy by adopting the agreement in a fractured manner by way of pick and choose, i.e, insisting for Annual Fee (Revenue share) of 38.7% which is not allowed as a pass-through as per OMDA, but revenue streams which were non-aeronautical as per OMDA to be treated as aeronautical and instead of 30% cross-subsidisation, a 100% cross-subsidisation by virtue of putting the same in a till. We have already elaborated our stand in this respect in our response to AERA Consultation Paper No. 3/2009-10 dated 26th February, 2010."*

20.34. The Authority notes that it is mandated to determine aeronautical charges in accordance with the provisions of the AERA Act. While so doing, it is also required to take into consideration the concessions offered by the Central Government as well as any other factor, which may be relevant under Section 13(1)(a)(vi) and 13(1)(a)(vii) of the Act. The Authority is also of the view that the provisions of the Act would need to be given primacy. At any rate, the SSA and OMDA both clearly indicate the intention of the Government to establish an independent regulator so it cannot be said that the bidders were unaware of this likely future development impacting on tariff determination. Hence if any alleged economic jeopardy is perceived to have been caused on account of the determination of aeronautical tariff in accordance with the provisions of the Act, appropriate remedy, if any, would need to be sought by the airport operator solely within the provisions of SSA/OMDA together with the provisions of the Act. Such perceived "economic jeopardy" cannot be said to have been caused by *"adopting the agreement in a fractured manner by way of pick and choose…….".* Authority has already taken a stand that fuel throughput is an element in the chain of fuel supply to the aircraft and fuel supply to an aircraft is defined as aeronautical service by AERA Act.

20.35. The Authority has also noted the decision of the Australian Competition and Consumer Commission (ACCC) in "Fuel throughput levies: report pursuant to the Commission's monitoring functions under the Prices surveillance Act 1983, December, 1988". In this report, ACCC has raised certain issues for determination and also given its findings thereof. It has concluded that *"the report concludes that the fuel throughput levies introduced by Brisbane Airport Corporation Ltd. (BACL) and proposed by Westralia Airport Corporation (WAC) are not justified in terms of increased in costs or through offsetting reductions in other charges."* Furthermore, it has also come to the conclusion that *"there is a strong case that larger airports have market power in the market for refueling services."* It has also stated that *"when considered in the light of the lack of any cost related justification for the levies, or offsetting reduction in the charges, there is a strong case that the imposition of a fuel throughput levy is taking advantage of market power."*

20.36. Further, in terms of section 2(a)(vi) of the AERA Act, any service provided for *"supplying fuel to the aircraft at an airport"* is an *"aeronautical service"*. Thus the supply of fuel to the aircraft at an airport from the oil companies into the airport is an integral part of operations as defined in Section 2(a)(vi) of the AERA Act.

20.37. The Authority had commented on the issue of FTC in its Airport Order as well as in the DIAL Tariff Determination Order. The Authority gives hereunder its analysis and reasoning of treating Fuel Throughput Charge as aeronautical revenue in the hands of MIAL.

20.38. The Authority's observations with respect to FTC:

20.38.1. Different parts of the aircraft fuel supply chain are serviced by different entities at the airport.

20.38.2. This aircraft fuel supply chain consists of various phases starting from the point of production of the fuel by the Oil Companies, its transportation to the airport and finally culminating in the supply of fuel to the aircraft at the airport.

20.38.3. The production of fuel for aircrafts is not an aeronautical activity. Hence, this is not under the regulatory ambit of the Authority.

20.38.4. The Fuel supply chain at an airport begins from entry of fuel into the airport premise and extends upto fuelling the aircraft. Service towards entry of fuel into the airport is provided by the Airport Operator, who has a monopoly over this service. The Airport Operator under an agreement with the Oil Marketing Companies charges for this service. These charges are termed as FTC. In the view of the Authority, it is a charge for providing this service. Merely calling it by the name of "fuel concession fee" or any other nomenclature does not change the nature of the service namely, aeronautical service and as this part is provided by the Airport Operator, the revenues arising from such aeronautical service in the hands of the Airport Operator are reckoned as aeronautical revenues in the hands of the Airport Operator.

20.38.5. Once fuel is inside the airport premises, it can be supplied to the aircraft either through fuel farm facility or through the oil tankers, which will depend upon the infrastructure available at the airport. Some airports may have Into-Plane (ITP) service for fuelling the aircraft.

20.38.6. The Authority has already taken a general approach on the treatment of revenues from aeronautical services when the same is provided by the airport operator or when such activity is provided by the third party in para 20.25 above.

20.39. Further, the Authority had in its Order No.07/2010-11 dated 04.11.2010 (in the matter of suo moto revision of throughput charges by the airport operators) examined the issue in detail. The Authority has also carefully noted the position of ICAO in this matter.

20.40. According to para 41 of ICAO document 9082,

> *"The council recommends that where fuel "throughput" charges are imposed they should be recognized by airport entities as being concession charges of an aeronautical nature and that fuel concessionaires should not add them automatically to the price of fuel to aircraft operators, although they may properly include them as a component of their costs in negotiating fuel supply prices with aircraft operators. The level of fuel "throughput" charges may reflect the value of the concession granted to fuel suppliers and should be related to the cost of the facilities provided, if any".*

20.41. The Authority is also cognizant of Appendix 3 into "Glossary of Terms" of ICAO document 9082, which are relied upon by the Airport Operator to treat "Concessions granted to Oil companies to supply aviation fuel and lubricants…" as non-aeronautical revenue.

20.42. The Authority's attention was also drawn by NACIL in its submissions to the Authority quoting from the Report (December, 1998) of the Australian Competition and Consumer Commission on fuel throughput levies. It was stated that,

> *"The Commission is required to monitor the aircraft refueling services. It took up the review of the fuel throughput levies imposed by the private airports on the basis of arrangements which were negotiated and put in place by Federal Airport Corporation (FAC) before the airports were privatized. These arrangements included provisions for fuel throughput levies but these were not activated. Pursuant to privatization, the private airport operators introduced the levies on the basis of the validity of contractual arrangements. In the review Commission, inter-alia, found as under:"*
>
> *(a) The fuel throughput levies were not justified in terms of increases in cost or through off setting reduction in other charges. The Commission was*

also of the view that the question of validity of contractual arrangements between the airport operators and lease holders is a matter for the relevant parties not the Commission.

(b) There is a strong case that large airports have market power in the market for refueling services. Further, when considered together with the monopoly nature of the market for land for refueling facilities, the lack of alternatives to refueling at some airports reinforces the airports market power. When considered in the light of the lack of any cost related justification for the levies, of offsetting reduction in charges, there is a strong case that imposition of a fuel throughput is -taking advantage of market power.

20.43. The Authority was informed that in light of the above findings, the Australian Consumer and Competition Commission recommended that a stricter form of price oversight in relation to aircraft refueling services and found that these services should be included within a CPI-X Price Cap. It would be also relevant to mention here that the Brisbane Airport and the Perth Airport have abolished the throughput fee in 2007.

20.44. In this regard, IATA had also made submissions to the Authority according to which the Market Access Fee is illegal in EU and in the Order has observed as under:

(vii) Market Access Fee is illegal in EU: EU has issued a Directive (No.96/97/EC of 15.10.1996) on access to the ground handling market at community airports. As per sl. 7 of Annex, "fuel and oil handling" is part of ground handling service. Article 16(3) of the Directive provides that where access to airport installations gives rise to the collection of a fee, the latter shall be determined according to relevant, objective, transparent and non-discriminatory criteria. From the papers made available by lATA, it appears that the European Court of Justice has interpreted Art. 16(3) in a manner that it "precludes the managing body of an airport from making access to the ground handling market in the airport subject to payment by a supplier of ground handling services or self-handler of an access fee as consideration for the grant of a commercial opportunity, in addition to the fee payable by that supplier or self-handler for the use of the airport

installations". In absence of any legal instrument of the nature of EU Directive, the ratio of EU Directive and its interpretation by the European Court of Justice may not be applicable in Indian context. However, EU position and the Australian position ………. demonstrate that the Fuel Throughput Charges are not encouraged in other jurisdictions.

20.45. Thus, ICAO Guidance suggests that the level of such charges should reflect the value of concessions granted and should be related to the cost of the facility provided, if any. The Authority notes that MIAL have not made any case of business valuation or cost of providing these services.

20.46. As far as the Indian situation is concerned, the Authority notes that as per Section 2 (a) (vi) of the AERA Act, the service provided for supplying fuel to the aircraft at an airport is an aeronautical service. Hence, the matter of regarding the service of supply of fuel to the aircraft being an aeronautical service is put to rest by AERA Act. As noted by the Authority, fuel availability at the airport is an integral part of supply of fuel to an aircraft.

20.47. In view of the above, the Authority had in its Order no. 07/2010-11 dated 04.11.2010 decided that the FTC is an aeronautical charge.

20.48. The Authority notes that this position was challenged before the Hon'ble Appellate Tribunal. The Authority had made its detailed written submissions in the matter apart from outlining its assessments of the legal position as mentioned above. The appeal has since been withdrawn by MIAL. The Hon'ble Appellate Tribunal in its Order dated 05.10.2012 (available on the Tribunal's website) has stated as under,

"After the two senior advocates had argued the matter extensively, the learned counsel for the appellant seeks to withdraw the matter, in view of the stand taken by Shri Nanda appearing for AERA (on instructions from AERA). The stand is that AERA is going to pass a final tariff determination order shortly by the end of November, 2012. Under the circumstances, he feels that there would be no point in our considering the ad-hoc increase in tariff. He also says that all the questions now raised would be kept open while considering the final determination of tariff.

Accordingly, the appeal is allowed to be withdrawn with the liberty that all the questions herein could be agitated at the stage of final determination *of tariff. In the meanwhile, the order dated 04.11.2010 on ad-hoc determination of fuel throughput charges shall remain in force.*

In view of this, the appeal stands disposed of as withdrawn."

20.49. Further, considering that MIAL have entered in to long term contractual agreements with the Oil Marketing companies, the Authority tentatively decided to consider the revision in FTC in line with the agreements and also consider the escalation at CPI or 7%, whichever is less.

Tentative Decision No29. Regarding Fuel Throughput Charges

29.a. **The Authority tentatively decided that Fuel Throughput Charges are charges in respect of provision of aeronautical service namely, supply of fuel to the aircraft, hence it is an aeronautical charge and is to be determined by the Authority under the Section 13 (1) (a) of the AERA Act.**

29.b. **The Authority tentatively decided to consider Fuel Throughput revenue as aeronautical revenue.**

29.c. **The Authority tentatively decided to consider the revision in Fuel Throughput Charges in line with the agreements with the oil marketing companies and consider the escalation at CPI or 7%, whichever is less.**

20.50. The impact of considering FTC as aeronautical revenue on X – factor is as under (this sensitivity subsumes the impact of considering FTC as aeronautical revenue on Hypothetical RAB discussed in para 10.24):

Table 112: Sensitivity – Impact on X factor from considering Fuel Throughput revenue as aeronautical revenue

Parameter	X Factor as per the Base Model	X Factor after change in assumptions
Fuel Throughput revenue as aeronautical revenue	-873.36%	-908.38%

Treatment of Common User Terminal Equipment (CUTE) Counter Charges

20.51. MIAL, in their tariff proposal, have considered revenue from the Common User Terminal Equipment (CUTE) Counter Charges as non-aeronautical revenue.

20.52. Further, MIAL submitted that there are two streams of revenue accruing to MIAL on account of CUTE Counters.

20.52.1. Payment made by the airlines to MIAL as charges per counter per month.

20.52.2. Concession fee paid by SITA to MIAL, where SITA is providing the software services in respect of CUTE Counters.

20.53. MIAL, vide their initial submission dated 11.10.2011, submitted that the revenue from CUTE Concession is projected based on the contracts and estimated passengers. Further, vide their submission dated 08.08.2012, MIAL submitted following details on the CUTE counter charges:

a) Domestic Terminal:

"Details of Cute Counter charges from domestic terminal are as under:"

Counter Type	*No of counters*	*Rates pm (Rs.)*	*Revenue from FY 12 (Rs in crs)*
Counter – NACIL	*22*	*5000*	*0.13*
Counter – Other Airlines	*73*	*6500*	*0.57*
Mobile counters	*14*	*2500*	*0.04*
Total	*109*		*0.74*

b) International Terminal:

"Cute counter revenue from International Operations is collected on per ATM basis. Therefore increase in it is expected to be in line with ATM growth.

Cute counter charges from Domestic and International operations are projected to be as under:

	FY 12	*FY 13*	*FY 14*
Counter charges Domestic	*0.74*	*0.74*	*0.74*
Counter charges International	*3.63*	*3.75*	*3.85*
Total counter charges	*4.37*	*4.49*	*4.59*
ATM – International growth rate		*3.2%*	*3.2%*

Note: - Cute counter charges are included under the head Terminal Building Rent in the model."

20.54. MIAL further confirmed that MIAL have not incurred any Capex in respect of CUTE concession given to SITA.

20.55. MIAL, vide their submission dated 13.09.2012, submitted that,

> *"MIAL receives counter charges (Rental charges) from the airlines for the counters utilised by them for checking/ processing of passengers. MIAL only provides bare counters. Necessary hardware and software is directly procured by the airlines from outsourced service provider. No capital expenditure has been incurred by MIAL towards Hardware or software and no service is being provided by the airport operator to airlines/ passengers. This charge is like any other rentals, hence of non-aeronautical nature. Therefore it should be considered as Non Aeronautical for the purpose of computing cross subsidy."*

20.56. The Authority sought details regarding the arrangement of service in respect of provision of CUTE Counter service. MIAL submitted that payment being made by the airlines to MIAL is in the nature of rent for the counters occupied by them, hence it has been included in Terminal Building Rent in the MYTP model as a part of Terminal Building Rent and this should be considered as non-aeronautical revenue and the payment being made by SITA to MIAL is a concession fee, which is collected on a per ATM basis. On account of this payment being in the form of a concession, this should be considered as non-aeronautical revenue.

20.57. The Authority observed that in terms of arrangement of service, MIAL have provided bare counters to the airlines and receives charges from directly from the airlines on per counter basis. The Authority further observed that SITA has been concessioned the CUTE Counter service and accordingly provides the same to the airlines in form of software and hardware service related to CUTE Counters. In accordance with the arrangement of service, the Authority is of the view that while payment being made by SITA to MIAL is a concession fee, the payment made by airlines is a direct payment to MIAL and does not involve any concession.

20.58. Further as per the AAI Ground Handling Regulations 2007, Cute Counter Services could be considered as "Passenger and Baggage Handling at the Airport Terminal" under Para 1.2 of Schedule 2 of the regulations.

20.59. In view of the above, MIAL's proposal of the payment made by SITA to MIAL, being a concession fee to be considered as non-aeronautical revenue is acceptable to the Authority.

However, MIAL's proposal of the payment made by airlines being a direct payment to MIAL to be considered as non-aeronautical revenue does not appear acceptable to the Authority. In line with this view, this direct payment from airlines to MIAL have been proposed to be considered as aeronautical revenue by the Authority. However, this direct payment, before the start of the current control period i.e., before 01.04.2009, is proposed to be considered as non-aeronautical revenue as the same was being governed by OMDA and SSA at that point of time.

Tentative Decision No30. Regarding CUTE Counter charges

30.a. **The Authority tentatively decided to consider the CUTE counter services as aeronautical service and the payment made by airlines being a direct payment to MIAL as aeronautical revenue.**

20.60. The impact of considering CUTE Counter services as Aeronautical services on X factor would be as under:

Table 113: Sensitivity – Impact on X factor from considering CUTE Counter services as Aeronautical services

Parameter	X Factor as per the Base Model	X Factor after change in assumptions
Considering CUTE Counter services as Aeronautical services	-873.36%	-872.05%

20.61. Keeping in view the tentative decisions of the Authority, the following revenues from Revenue Share Assets have been considered for the purpose of determination of X:

Table 114: Revenues from Revenue Share Assets for the purpose of determination of X

Revenue Share Assets (in Rs crores)	FY10	FY11	FY12	FY13	FY14
Retail Licences Revenue					
F&B	22.0	25.7	30.1	34.8	39.4
Flight Kitchen	10.5	16.2	22.8	24.1	25.3
Retail concession	11.0	24.6	39.4	43.6	69.6
Foreign exchange	23.4	26.9	39.1	41.0	42.9
Communication	20.5	37.8	36.5	40.0	27.6
Car Rentals & Taxi Service	5.3	6.8	8.8	10.2	16.8
Duty Free Shops	60.5	45.7	45.8	53.2	75.2
Hotel in T1C	-	-	-	-	-
Advertising Income	35.7	46.0	56.4	62.1	72.6

Revenue Share Assets (in Rs crores)	FY10	FY11	FY12	FY13	FY14
Car Parking	13.3	12.1	12.8	13.8	7.8
Ground Handling	26.9	39.4	52.8	53.3	55.9
Aircraft refuelling	-	-	-	-	-
Others	7.9	7.2	8.6	10.0	11.3
Total Retail Licences Revenue	**237.0**	**288.4**	**353.1**	**385.9**	**444.2**
Rent & Services Revenue					
Land Rent & Lease	18.1	27.7	37.1	32.4	34.0
Hanger Rent	4.4	4.4	4.4	8.0	8.6
Terminal Bld Rent	11.7	15.0	23.2	21.4	23.5
Lounges	20.5	20.1	22.4	26.7	29.5
Cargo Bld Rent	-	-	-	-	-
Total Rent & Services	**17.2**	**36.5**	**17.5**	**15.5**	**16.8**
Cargo Revenue					
Total Cargo & Courier Revenues	**200.9**	**292.1**	**338.6**	**255.9**	**206.1**
Total Revenue from Revenue Share Assets	509.8	684.3	796.2	745.9	762.8
Less: Revenue from Other than Revenue Share Assets (ie. Non Transfer Assets)	4.8	5.1	5.7	6.1	6.4
Total Revenue from Revenue Share Assets for the purpose of Determination of 'X'	**505.1**	**679.2**	**790.5**	**739.8**	**756.4**

Treatment of Parking Charges for General Aviation Aircraft

20.62. MIAL, vide their letter dated 11.05.2011 and 18.06.2011 had separately filed a proposal to increase parking charges for General Aviation Aircraft for approval by the Authority. The Authority, vide letter No. AERA/20010/MIAL-GA/2009-10/840 dated 07.07.2011, stated that the Authority is unable to consider the matter in a piecemeal manner and advised MIAL to file Multi Year Tariff Proposal (hereafter referred to as "MYTP") for CSIA, Mumbai and to include the said proposal for parking charges as part of MYTP. These letters and subsequent submissions pertaining to parking charges for General Aviation Aircrafts are included collectively in **Annexure – I-A to I-D**.

20.63. In the meanwhile, the Authority was informed of the charging of parking penalty by MIAL on private plane owners. These charges have been levied by MIAL w.e.f. 01.07.2012 on private aircraft registered outside Mumbai and parked at the airport beyond an agreed number of days. The Authority also received a number of representations from companies owning business jets protesting against exorbitant penalties for extended use of the parking bays at the CSI Airport.

20.64. The Authority sought from MIAL a factual report for the Authority's consideration. MIAL, vide their letter dated 19.07.2012 and 04.08.2012 have inter-alia, submitted that to ensure safety at CSI airport, MIAL had to resort to introduction of Penal charges to discourage unauthorised stay of non-Mumbai based General Aviation aircraft at CSIA in violation of allocated slots. MIAL further submitted that it is not a parking charge and enclosed a copy of letter issued by them to defaulters explaining the reasons for introduction of penalty and right of Airport Operator to do so. MIAL, in the same submission, also stated the following:

> *"(a) There has been no increase in the parking charges by MIAL for any aircraft at CSIA and the same is levied as per the provisions of the State Support Agreement.*
>
> *(b) Only GA aircraft having CSIA as the "usual station" in Certificate of Registration (CoR) are free to be parked at CSIA without any restriction.*
>
> *(c) GA aircraft which do not have CSIA as "usual station" are allotted slots for arrival & departure at CSIA and parking charges are levied as per prescribed rates for the approved slot period.*
>
> *(d) Non CSIA based GA aircraft need to depart from CSIA as per allotted slot. Any stay at CSIA beyond the approved slot by such aircraft is not parking but unauthorized occupation.*
>
> *(e) The DGCA, in the past, have raised issues with respect to overcrowding by GA aircraft and has made adverse observations in the surveillance inspection carried out by DGCA for renewal of Aerodrome License of CSIA.*
>
> *(f) It may be noted that there has been repeated violation of slots by non CSIA based aircraft in the past resulting in unauthorized occupation.*
>
> *(g) MIAL is levying penal charges w.e.f. 01.07.2012 for unauthorized occupation due to violation of slots by non CSIA based GA aircraft. The penal charges are being levied as a deterrent to avoid unauthorized occupation.*
>
> *(h) The above is solely intended to decongest and enhance safety at the busy airport."*

20.65. MIAL, vide their submission dated 23.08.2012, submitted a note on levy of penal charges on GA Aircrafts. Presenting the reasons and scheme for levy of such charges, MIAL submitted that they have undertaken a consultative procedure for implementation of penal charges.

20.66. The Authority noted the above submissions and observed that under the AERA Act, as per Section 2(a), definition of "aeronautical service" includes:

"…(ii) for the landing, housing or parking of an aircraft or any other ground facility offered in connection with aircraft operations at an airport;"

20.67. As regards the representations made by companies protesting against the exorbitant penalties for extended use of the parking bays at the CSI Airport, the submissions of MIAL indicate that apparently the aircrafts are occupying aircraft parking space/bays beyond the normal time span of 48 hours permitted by the Airport Operator.

20.68. However, it can be said that the normal parking slots for these aircrafts are not at Mumbai but at other airports like Nagpur, Chennai etc. The DGCA Certificate mentions these other airports as "usual station" for these aircrafts. Hence, the act of parking of such aircrafts at MIAL is in violation of the licence/certification conditions. Such occupation of parking area amounts to the act of parking of aircraft at the airport and hence any charge for the same would qualify to be a charge for using the aircraft parking facility at the airport.

20.69. As per Section 13(1) (a) of the AERA Act, the Authority is required to determine aeronautical charges at a major airport and hence, parking charges that can be levied at a major airport have to be determined by the Authority – including at CSI airport – the airport being a major airport. Such parking charges are for a service that is defined as, "aeronautical service". Merely calling them as "penalty charges" would not alter the basic character of the parking service (beyond the stipulated time) from being an aeronautical service.

20.70. The Authority also observed that the companies protesting against the exorbitant penalties have stated that there is enough space for parking of aircrafts at CSI airport Mumbai while MIAL is making a claim to the contrary. As per the information before the Authority, apparently the GA aircrafts are permitted a parking for 48 hours at the CSI Airport, Mumbai. Further, it has also been stated by these companies that the GA aircraft may not be able to take off due to various reasons – including because of grounding – due to technical snag / MRO requirements and that the maintenance and repair of aircraft takes many days and during that period the GA aircraft operators are being charged such increased parking charges.

20.71. As already brought out vide para 20.62, the Authority had advised MIAL to submit a detailed proposal in support of their request for increasing the parking charges for General

Aviation Aircrafts. MIAL have included the Schedule of Penal Charges (presented below) in their ATP as Schedule 1 of their submission dated 27.08.2012.

"Schedule of Penal Charges for unauthorized stay beyond the slot allotted in case of General Aviation (including non-scheduled operators) Aircraft not having usual station at CSIA.

Table 115: Schedule of enhanced parking charges for GA Aircrafts beyond the slot allotted and not having usual station at CSIA

Sl. No.	Aircraft Type	Enhanced Charges Per Hour (Rs.)
1.	Airbus 319 -115	15000
2.	ERJ 190 -100 ECJ Lineage 1000	11000
3.	Global Express XRS B0700 -1A -10	9000
4.	Gulfstream G V	8000
5.	Global 5000 Model B0700 -lA11	8000
6.	Falcon 900 EX	4500
7.	Challenger CL 600 -2B16 (CL-604	4500
8.	Challenger 605	4500
9.	Falcon 2000 EX Easy	4000
10.	BD100-1A10 Challenger 300	4000
11.	Hawker Beechcraft 4000	4000
12.	Falcon 2000	3000
13.	Gulfstream -200	3000
14.	Hawker 800XP	3000
15.	Hawker 850XP	3000
16.	HS7	3000
17.	HS125 700 D	2500
18.	Gulfstream G-l00 (Astra SPX)	2000
19.	Learjet 60 XR	2000
20.	Cessna Citation 560 XL5	2000
21.	Beech 1900-D	1600
22.	Cessna Citation 550 Bravo	1400
23.	Hawker 400 XP-(400A)	1400
24.	Beechcraft Super King Air B300	1400
25.	Cessna 525A	1200
26.	Cessna Citation 556	1200
27.	Super King Air B 200	1200
28.	Premier 1A 390	1200
29.	PIAGGIO P-180 Avanti II	1000
30.	Pilatus PC12/45	1000
31.	Beechcraft King Air C-90B	1000
32.	King Air C-90 A	1000
33.	Beechcraft Super King Air B200	1000

Note: -Any Aircraft Type not listed above will be subject to penal charges as may be applicable to nearest equivalent Aircraft Type listed above."

Tentative Decision No31. Regarding Treatment of Parking Charges for General Aviation Aircraft

31.a. **The Authority tentatively decided to treat parking for General Aviation (including parking beyond the stipulated time) as aeronautical service and such parking charges as aeronautical revenues.**

31.b. **The Authority tentatively decided to consider the parking charges proposed by MIAL for General Aviation as part of tariff / rate card.**

21. Traffic Forecast

21.1. Regarding Passenger Traffic and Air Traffic Movements, MIAL have made following submission:

> *"CSI is amongst the busiest Airport in India which saw a passenger traffic of 29.07 million in FY 10-11. Currently, 37 international carriers and 7 domestic carriers connect to 44 international destinations and 43 domestic destinations from CSIA.*
>
> *A detailed report on the traffic forecast has been prepared for CSIA by its Statistical Department to provide an estimate of future demand for air traffic at CSIA from FY 2011-12 to FY 2013-14.*
>
> *Forecast of traffic, both passengers and cargo, is solely based on possibility of increase in ATMs and increase in load factor. Because of capacity constraints, MIAL so far is refusing slots to domestic airlines in each slot allocation meeting. Higher number of ATMs cannot be achieved, unless slots can be given to airlines, especially domestic airlines, though there is a possibility of a higher load factor.*
>
> *Immediate constraints in capacity are increasing numbers of ATM during peak hours. It may be noted that peak hour currently itself is a period of 18 hours. Balance hours are such that there is no demand from domestic Airlines. Even for international operations, this lean period is not preferable, and there is no demand, not only for passengers but also for freighters.*
>
> *Only way to achieve traffic of 40 million by increasing ATM's, increasing in aircraft size and substantial increase in load factor. However load factor above 90% has not been considered as practically, load factor above 90% throughout the year is not achievable. Secondly with 100% load factor there will be corresponding drop in cargo volumes."*

21.2. MIAL, vide their submission dated 11.10.2011, submitted the Air Traffic Forecast for CSIA. MIAL in their Air Traffic Forecast stated that air traffic forecast is done for two scenarios, unconstrained growth scenario and constrained growth scenario mainly due to runway capacity constraint.

21.3. MIAL, further stated that under the unconstrained growth scenario, passengers traffic are projected based on the historical 10-years CAGR at CSIA i.e. 11.1 % and 5.8% for domestic and international passengers respectively. ATMs are estimated by dividing the projected passengers per air traffic movements for passenger flights (PAX/PATM). MIAL stated that the historical 3-years CAGR on PAX/PATM is used as it shows some consistency in the growth and reflects the current situation. MIAL submitted that under unconstrained growth CSIA's capacity of 40 million passengers would have been reached in FY15

21.4. MIAL, further submitted that under the constrained growth scenario, the average passenger and ATMs growth will be 6.0% and 3.6% respectively (as against 9.5% and 8.6% in the unconstrained growth scenario) for 3 years up to FY14. MIAL submitted that under constrained growth CSIA's capacity of 40 million passengers will be reached in FY19.

The Projected traffic with constrained growth scenario submitted by MIAL is summarised below:

Passenger Forecasts:

In Million Pax & % growth	*FY 12*	*FY 13*	*FY 14*
Domestic	*21.78*	*23.24*	*24.57*
Growth	*8.93%*	*6.68%*	*5.73%*
International	*9.49*	*9.81*	*10.10*
Growth	*4.53%*	*3.42%*	*2.92%*
Total	*31.27*	*33.05*	*34.67*
Growth	*7.56%*	*5.69%*	*4.90%*

ATM Forecasts:

In '000 ATM & % growth	*FY 12*	*FY 13*	*FY 14*
PAX ATM Domestic	*180*	*186*	*190*
Growth	*5.50%*	*3.31%*	*2.40%*
PAX ATM International	*67*	*69*	*71*
Growth	*4.57%*	*3.46%*	*2.96%*
Total	*247*	*255*	*261*
Growth	*5.24%*	*3.35%*	*2.55%*

21.5. MIAL, vide their submission dated 23.11.2011, further submitted that

"With regard to Traffic Forecast based on restricted growth in ATMs due to restrictions on runway capacity it is submitted that CAA, while determining tariff for Gatwick and Heathrow airports for the current quinquenium (In its

decision dated 11 March 2008 on "Economic Regulation of Heathrow and Gatwick Airports 2008-13) has also considered runway capacity as a constraint for determining the additional slots for ATM projections and has, accordingly, considered availability of slots for new ATMs during restricted hours only if the same are vacated by existing airline users. While in case of Heathrow, it has specifically observed that " ...By contrast Heathrow's runway capacity will not allow further growth of movements ..." (para 4.23), in case of Gatwick it has held that:

"4.43 Gatwick currently operates at close to its runway capacity through much of the day, so it is reasonable to assume that many slots vacated by transatlantic or charter flights will be used by other services...

4.46 Given the relatively constrained nature of the Gatwick runway in peak weeks, CAA's forecasts assume that every slot vacated by a transatlantic service is used for a replacement service, but no previously unused slots are utilized (ie. the number of annual air transport movements lost is exactly matched by the number of backfill movements)...."

…. Thus, there are regulatory precedents where runway capacity has been considered as a major constraint, which limits the forecast number of ATMs. Further, increase in passengers is then determined with constrained ATMs and projected PAX/ATM or load factor, which was 70% for domestic/short haul and 77% for long haul flights at Heathrow. Similarly, MIAL has considered runway capacity as the limiting factor for projecting ATM growth rate at CSIA and passenger increase has been considered with corresponding increase in PAX/ATIVI or load factor (about 75% for domestic and 69% for international in FY 11). MIAL has, therefore, considered the growth in ATMs in each of the hourly slots during lean period as per long term trend, whereas the ATMs have been restricted when total ATMs/hour due to such growth in ATMs reaches the runway capacity of 36 ATMs/hour. The restriction in ATMs is reflected by corresponding restriction on number of passengers. "

21.6. Further, vide letter dated 26.06.2012, MIAL submitted that they have revised the Air traffic based on actual numbers for FY12. For calculation of growth rates, base years (2010-11) are shifted by one year to include actual traffic numbers for FY 12. MIAL also submitted an updated Traffic Forecast Report along with their 26.06.2012 submission. A comparison of earlier projections upto FY 14 with actual /revised projection, as submitted by MIAL, is reproduced below:

Passenger Forecasts:

In Million Pax & % growth	*FY 12*		*FY 13 Projection*		*FY 14 Projection*	
	Projected	*Actual*	*Earlier*	*Revised*	*Earlier*	*Revised*
Domestic	*21.78*	*21.04*	*23.24*	*22.61*	*24.57*	*23.92*
Growth	*8.9%*	*5.24%*	*6.68%*	*7.44%*	*5.73%*	*5.81%*
International	*9.49*	*9.71*	*9.81*	*10.10*	*10.10*	*10.44*
Growth	*4.53%*	*6.92%*	*3.42%*	*4.04%*	*2.92%*	*3.41%*
Total	*31.27*	*30.74*	*33.05*	*32.71*	*34.67*	*34.37*
Growth	*7.56%*	*5.76%*	*5.69%*	*6.37%*	*4.90%*	*5.07%*

ATM Forecasts:

In 000 ATM & % growth	*FY 12*		*FY 13 Projection*		*FY 14 Projection*	
	Projected	*Actual*	*Earlier*	*Revised*	*Earlier*	*Revised*
PAX ATM Domestic	*183*	*179*	*190*	*187*	*195*	*193*
Growth	*5.55%*	*3.06%*	*3.40%*	*4.43%*	*2.51%*	*2.88%*
PAX ATM International	*72*	*72*	*74*	*75*	*76*	*76*
Growth	*4.35%*	*5.14%*	*3.21%*	*3.25%*	*2.78%*	*2.64%*
Total	*255*	*251*	*264*	*263*	*271*	*269*
Growth	*5.21%*	*3.65%*	*3.35%*	*4.09%*	*2.59%*	*2.81%*

Revised Cargo Forecasts: (MIAL Concessionaire from July 2012)

In Million Pax & % growth	*FY 12*		*FY 13 Projection*		*FY 14 Projection*	
	Projected	*Actual*	*Earlier*	*Revised*	*Earlier*	*Revised*
Domestic	*24.44*	*41.65*	*26.05*	*44.24*	*27.63*	*46.53*
Growth	*8.38%*	*84.75%*	*6.61%*	*6.20%*	*6.06%*	*5.2%*
International	*340.50*	*369.78*	*360.72*	*393.35*	*380.97*	*415.63*
Growth	*7.17%*	*16.39%*	*5.94%*	*6.35%*	*5.61%*	*5.69%*
Total	*364.93*	*411.43*	*386.77*	*437.49*	*408.60*	*462.16*
Growth	*7.25%*	*20.92%*	*5.98%*	*6.00%*	*5.64%*	*5.64%*

21.7. Regarding Cargo Forecast, MIAL have made following submission:

"Cargo infrastructure at CSIA is highly constrained. All out efforts are being made to improve overall efficiency to improve service levels. Since there will not be any marked increase in full freighters since slots are not available during desired time and with increase in load factor of passengers, there will be adverse impact on tonnage of belly cargo. Accordingly, growth in cargo volume is considered at 2% as a result of improvement in efficiency and any slot allocation for full freighters during lean period."

21.8. The cargo tonnage to be handled by MIAL / concessionaire during FY 12, FY 13 and FY 14 as submitted by MIAL is reproduced below:

Table 116: Cargo tonnage to be handled by MIAL as per MIAL submission

(000 MT)	FY10	FY11	FY12	FY13	FY14
	Actuals		Projections		
Total Cargo	250	340	347	354	361

21.9. MIAL, vide their submission dated 23.11.2011, further submitted that

"Hon'ble Authority had observed that the cargo volume forecast with only 2% growth p.a. appears to be on lower side as the assumption that there will not be any increase in freighter ATMs does not seem to be realistic. Further, increase in passenger load factor may not reduce in-line/belly cargo as assumed by MIAL, particularly for international flights. MIAL has, accordingly, considered the suggestions made by the Hon'ble Authority, revisited the assumptions and revised its cargo forecast based on past trend of total cargo volume and freighter ATM growth at CSIA subject to the runway constraint of 36 ATMs/hour at CSIA."

21.10. The summary of revised Cargo forecast as submitted by MIAL is reproduced below:

Table 117: Summary of revised cargo forecast

In MT & % Growth	FY 11	FY 12	FY 13	FY 14
Domestic	22,546	24,435	26,050	27,628
Growth		8.4%	6.6%	6.1%
International	317,715	340,500	360,725	380,974
Growth		7.2%	5.9%	5.6%
Total	340,260	364,935	386,775	408,602
Growth		7.3%	6.0%	5.6%

21.11. MIAL, vide their submission dated 23.11.2011, further submitted that

> *"MIAL would like to submit that although it has revised the cargo forecast as per long term past trend for the purposes of this filing, it strongly feels that the same has high positive bias as current trends of cargo volume show a declining and even negative growth rate in recent months. MIAL, therefore, requests Hon'ble Authority to carry out a true up of the tariff based on actual variations in the traffic in subsequent years from the forecast considered herein."*

21.12. MIAL, vide their letter dated 11.09.2012, submitted the comparison of the actual growth rates in air traffic till August 2012 with the projected growth rate for FY 13. MIAL further submitted as under,

> *"………however the actual traffic for FY 13 (upto August, 2012) is much lower than projected. Rather passenger, ATM and cargo traffic for the current year upto August, 2012 has reduced by 4.12%, 2.92% and 3.78% respectively compared to previous year, leave aside any growth."*

21.13. Based on the above submission, MIAL have requested the Authority for 100% truing-up of the traffic in light of current market scenario.

21.14. Further, vide their letter dated 13.09.2012, MIAL have requested the Authority to true up the cargo revenue considered in the projections for the purpose of cross-subsidy. MIAL stated as under,

> *"….. MIAL had requested the Authority for 100% true up of the traffic (ATM, Pax and Cargo) considering significant de-growth in the actual traffic numbers vs. forecast, upto Aug 12. It may be noted that MIAL has considered these growth projections for cargo tonnage as well while projecting tonnage to be handled by MIAL/concessionaire after outsourcing of Domestic and International cargo, based upon which likely revenue/ revenue share to be received from concessionaire was worked out. Since cargo revenues are part of revenue from Revenue Share Assets as per the provisions of SSA, 30% of the revenue accruing to MIAL has been considered for the purpose of cross subsidy. We request the Authority to true up the cargo revenue considered in the projections for the purpose of*

cross subsidy after taking into account actual cargo tonnage handled by MIAL/concessionaire."

21.15. The Authority held discussions with AAI on the assumptions made by MIAL in their traffic projections. Based on the discussions with AAI, the Authority noted the following:

21.15.1. MIAL, during discussions, indicated that they face the constraint in growth of air traffic primarily on account of runway capacity. MIAL attribute the constraint of runway capacity to supporting ground infrastructure on the air side. The supporting ground infrastructure on the air side is with respect to, primarily, having a parallel taxiway, one for the arriving planes and the other for the departing planes. Mumbai is a single runway configuration with cross intersecting runway as a standby alternative. Hence this configuration is not as efficient as a two parallel runway airport.

21.15.2. As of today, Mumbai airport has only one taxiway. During discussion with AAI, it was confirmed that on the ground, there is no possibility of building a second taxiway. AAI indicated that if at all the second taxiway is somehow to be constructed, this would entail demolition of about half the parking or a fair portion of the new integrated terminal under construction. Hence building a second parallel taxiway is not a viable option. This constraint of having a single runway configuration with a single taxiway is therefore permanent and would continue to be so even after the completion of the integrated terminal building in August, 2014. This, therefore, is a constraining factor to limit the ATM growth.

21.15.3. AAI also indicated that provided the second parallel taxiway could have been built, there were other attendant ground infrastructure like rapid exit, etc. which would have augmented the number of ATM per hour. According to AAI, in the absence of the possibility of the second taxiway, any improvements like above, namely, rapid exit, etc. may result into marginal improvement.

21.15.4. AAI also indicated that apart from the works being undertaken by MIAL, AAI on its part is also putting in place certain measures to augment the ATM per hour, this include improvement procedures, flow management techniques, reduced separations without compromising safety, etc.

21.15.5. On balance, with the works initiated by MIAL and AAI put together, there would be an improvement in the peak ATM per hour up to around 45-46.

21.15.6. AAI has estimated a growth rate of 9.4% (average) split into 11% for domestic passengers and 6% for international passengers (AAI has prepared this forecast for the purposes of 12th Plan and the reference date of making this forecast is January, 2012). Taking the growth for passengers for 2011-12 over the previous year, it is found that it has been 5.8%. Further the growth rate for first 5 months of FY 2013 has been negative. The diversions from the forecast to the actual can be attributed to many economic factors like general stagnation/downturn in the European economy as well as certain deceleration in the Indian economy.

21.16. The Authority has noted that there is general volatility observed in the air traffic at CSI Airport, Mumbai. Further the balance number of years in the current control period is 1.25. Thus no medium term / long term traffic forecast is required to be made anyways.

21.17. In view of the above, the Authority is inclined to accept the MIAL submission on traffic projections subject to truing-up. The projection as considered by MIAL is as under:

Table 118: Traffic Projection considered by MIAL

	FY13	FY14
Passenger		
Domestic	7.44%	5.81%
International	4.04%	3.41%
ATM		
Domestic	4.43%	2.88%
International	3.25%	2.64%
Cargo		
Domestic	6.20%	5.20%
International	6.35%	5.69%

Tentative Decision No32. Regarding traffic forecast and forecast correction

32.a. **The Authority tentatively decided to use the actuals for FY 2009-10, 2010-11 and 2011–12 and to use the MIAL forecast for forecasting Passenger, ATM and Cargo traffic for the years 2012-13 and 2013-14 [with the year 2011-12 as the base year].**

Truing Up: 9. **Correction / Truing up for Tentative Decision No32**

9.a. The Authority tentatively decided not to have any symmetrical band around the forecast number for the purpose of truing up.

9.b. The Authority tentatively decided to make 100% correction (truing up), of the traffic, the effect of which would be given in the next control period commencing from 1st April, 2014.

22. Calculation of CPI –X

22.1. MIAL, vide their submission dated 11.10.2011, stated that

"The escalation factor (CPI-X) for tariff increase is to be calculated by solving the equation given in the SSA. CPI is to be based on average for annual inflation rate as measured by change in the All India CPI (Industrial Workers) over the regulatory period. Thus, while determining X factor and maximum average Aeronautical charge at the beginning of first regulatory period, the value of CPI would be an assumed value, which would need to be corrected annually for actual value for each year while keeping the value of X same as determined earlier. As two and a half years of regulatory period have already elapsed, MIAL have assumed a one-time tariff increase to be effective from 01/12/2011 for the remaining control period."

Observations on Calculation of CPI-X

22.2. In considering MIAL's submissions and formulating tentative views on the issue, following aspects need to be reviewed:

- Treatment of aeronautical charges in the shared till inflation – X price cap model as per the SSA.
- Illustrative Numerical Example of the Price Cap Approach for X factor determination in the SSA.

According to Schedule 1 of the SSA

"The maximum average aeronautical charge (price cap) in a particular year 'i' for a particular category of aeronautical revenue 'j', is then calculated according to the following formula:

$$AC_i = AC_{i-1} \, x \, (1 + CPI - X)$$

where CPI = average annual inflation rate as measured by change in the All India Consumer Price Index (Industrial Workers) over the regulatory period"

22.3. Further, in the illustration provided in Schedule 1 of the SSA, X factor is determined along with considering inflationary increases together.

22.4. In view of the above, the Authority felt that the approach proposed by MIAL for the calculation of CPI – X appears to be acceptable.

22.5. MIAL, in their MYTP submission, had calculated 'CPI-X' factor at 664.40% based on their interpretation and assumption regarding various parameters of the building blocks which go into the calculation and particularly that of methodology indicated in Schedule 1 of the State Support Agreement. Thereafter on 20.08.2012, MIAL gave additional submission stating that they had not factored in the fact that there will have to be automatic inflationary increase w.e.f. 01.04.2013.

22.6. This 'CPI-X' factor of 664.40% was calculated based on the assumption that the tariffs proposed by MIAL would be effective w.e.f. 01.07.2012. MIAL had further stated that if inflation is factored in so that the tariffs are revised based on 'CPI-X' w.e.f. 01.04.2013, the 'CPI-X' factor works out to 628%. Since the exercise of tariff determination is underway, the question of making tariffs applicable w.e.f. 01.07.2012 now does not arise. Hence, MIAL made an additional submission vide their letter dated 13.09.2012 stating that if the tariffs are made applicable w.e.f. 01.01.2013, then the 'CPI-X' factor would work out to 875% (since the time remaining to get Target Revenue over the entire control period has become smaller).

22.7. According to Authority's calculations, if the increased development fee proposed to be collected at the rate of Rs. 200/- per departing domestic passenger and Rs. 1300/- per departing international passenger is factored into calculations (and that the increased DF would be applicable from 01.01.2013) the 'CPI-X' factor comes to 882%. Considering an inflation of 8.94%, as proposed by MIAL, the X-factor will work out to 873%.

Tentative Decision No33. Regarding calculation of CPI - X

33.a. **The Authority tentatively decided to follow the formulation specified in the SSA and calculate the "X" factor by solving the system of equations mentioned therein.**

23. Inflation

23.1. MIAL submitted that in the current filing, they have considered inflation as a 5 year CAGR of Consumer Price Index for Industrial Workers (CPI-IW) as specified in Schedule of SSA, which was estimated to be 8.94%.

23.2. The Authority observed that this inflationary increase has been applied on those operating expenditure heads and non-aeronautical revenue heads, whose projections are linked to inflation as well as in the calculation of CPI - X.

23.3. The Authority, in line with its DIAL Tariff Determination Order, has tentatively decided to adopt the same approach for estimating the CPI-IW inflation to be considered for tariff determination under this MYTP. Accordingly the Authority proposed to have reference to Survey of Professional Forecasters on Macroeconomic Indicators by RBI.

23.4. The Authority noted that the CPI-IW for the first quarter (Q1) of FY 2013 has been 10.10%. Further as per the Results of the Survey of Professional Forecasters on Macroeconomic Indicators – 20th Round (Q1:2012-13) by RBI, median quarterly forecast for CPI-IW inflation is as under:

Table 119: Quarterly Median Forecast for CPI-IW by RBI

Median Forecast for CPI-IW Inflation: Quarterly	
	CPI-IW
Q2:12-13	9.5
Q3:12-13	9.1
Q4:12-13	8.9
Q1:13-14	7.8

23.5. The long term median forecast under the Results of the Survey of Professional Forecasters on Macroeconomic Indicators – 20th Round (Q1:2012-13) by RBI for inflation is as under:

Table 120: Long Term Median Forecasts for Inflation by RBI

Long Term Median Forecasts for Inflation		
Growth rate in %	Next Five Years	Next Ten Years
CPI-IW	7.3	6.8

23.6. In view of the fact that the effective period for which the increased tariff would be applicable in case of MIAL in the current control period is around one year and three months, the Authority considered it appropriate to extrapolate the CPI-IW forecast for first quarter of FY 2014 over the remaining quarters of FY 2014 instead of considering a five year forecast.

23.7. Forecast of CPI-IW, based on the above approach, for the balance years of the current Control Period can be summarised as under

Table 121: Forecast of CPI-IW for the Control Period considered by the Authority

CPI-IW (in %)		
	FY 2012-13	FY 2013-14
Q1	10.10	7.8
Q2	9.5	7.8
Q3	9.1	7.8
Q4	8.9	7.8
Average	9.4	7.8

Tentative Decision No34. Regarding forecast for CPI-IW Inflation

34.a. **The Authority tentatively decided to consider CPI-IW inflation of 9.40% for FY 2013 and 7.80% for FY 2014 for the present tariff determination.**

Truing Up: 10. **Correction / Truing up for Tentative Decision No34**

10.a. The Authority has tentatively decided to true-up the CPI-IW inflation index (Considered for the current exercise of tariff determination) for actual CPI-IW inflation index as may occur for FY 2012-13 and FY 2013-14 and will give effect to the same at the beginning of the next control period.

23.8. The impact of considering CPI-IW inflation of 9.40% for FY13 and 7.80% for FY14 on the value of X is as under:

Table 122: Sensitivity – Impact on X factor from considering CPI-IW as per Tentative Decision No34

Parameter	X Factor as per the Base Model	X Factor after change in assumptions
Considering CPI-IW inflation of 9.40% for FY13 and 7.80% for FY14	-873.36%	-881.09%

24. Sensitivity Analysis & Calculation of X-factor

24.1. Mumbai International Airport Ltd. (MIAL) in their submissions given in the MYTP had arrived at 'CPI-X' factor of 664%. While arriving at this number, they had made various assumptions regarding the building block elements like cost of equity, hypothetical RAB, and a number of other parameters. The Authority has reviewed the assumptions and, as mentioned above, arrived at its own values for different parameters. For ease of comparison, these are given below:

Table 123: Summary of Sensitivity Analysis

Sl. No.	Sensitivity Analysis parameter	Details of sensitivity analysis parameter	Assumptions of MIAL	Authority's review
1.	Cute Counter Charges	Discussed in Para 20.51 to Para 20.60	MIAL have considered this source of revenue under non-aeronautical revenue	As per discussion in Tentative Decision No30 Authority has tentatively decided to consider this as aeronautical revenue.
2.	Revenue from Cargo and demurrage	Discussed in Para 20.1 to Tentative Decision No28	MIAL have considered revenue from cargo services under non-aeronautical revenue. Further MIAL have considered revenue from Demurrage as part of revenue from Rents & Services rather than as part of revenue from cargo services	As per discussion in para 19.22, Authority has tentatively decided to consider demurrage as part of revenue from cargo services. Further the Authority has tentatively decided to consider revenue from cargo services as non-aeronautical revenue.
3.	Fuel Throughput Charges	Discussed in Para 20.27 to Para 20.50	MIAL have considered this source of revenue under non-aeronautical revenue	As per discussion in Tentative Decision No29, Authority has tentatively decided to consider this as aeronautical revenue.
4.	Project cost disallowances and non-inclusions	Discussed in Para 2.32 to Para 2.40	MIAL have considered the total project cost of Rs 12,380 crores for the purpose of tariff determination.	As per discussion in Tentative Decision No1, Authority has tentatively decided to consider Rs 11,647.46 crores for the purpose of tariff determination.
5.	Retirement compensation from MIAL to AAI	Discussed in Para 11	MIAL have considered this payment as part of their project cost and hence proposed to amortize the same	As per discussion in Tentative Decision No15 the Authority has tentatively decided to expense out the actual amount of payment made by MIAL to AAI and not to amortize.

Sl. No.	Sensitivity Analysis parameter	Details of sensitivity analysis parameter	Assumptions of MIAL	Authority's review
6.	Calculation of Hypothetical RAB – Consideration of 30% share of Non-aeronautical revenue	Discussed in Para 10.15 to Para10.17	While determining the Hypothetical RAB, MIAL have considered a share of 30% of non-aeronautical revenue	As per discussion in para 10.17 Authority has tentatively decided not to consider non-aeronautical revenue for the purpose of determination of Hypothetical RAB.
7.	Calculation of Hypothetical RAB – Consideration of exceptional expense of Rs 54 crore	Discussed in Para 10.18 to Para 10.22	MIAL have not considered this expense of Rs 54 crores in the determination of Hypothetical RAB	As per discussion in para 10.22 Authority has tentatively decided to consider this expense in the determination of Hypothetical RAB.
8.	Calculation of Hypothetical RAB – Consideration on discounting rate i.e. WACC	Discussed in Para 10.25 to Para 10.38	MIAL have considered WACC submitted at the bidding stage as the discount rate for the determination of Hypothetical RAB	As per discussion in Tentative Decision No14, the Authority has tentatively decided to consider WACC for the first control period as the discount rate for the determination of Hypothetical RAB.
9.	Cost of Refundable Security Deposit	Discussed in Para 13	MIAL have proposed to consider equity return of 24.2% on the Refundable Security Deposit planned to be raised by MIAL.	As per discussion in Tentative Decision No17, the Authority has tentatively decided to consider the actual cost of Refundable Security Deposit, which at present, has been considered to be zero.
10.	Cost of Equity	Discussed in Para 14	MIAL have considered the cost of equity at 24.2%.	As per discussion in 18.c, the Authority has tentatively decided to consider the cost of equity at 16%.
11.	Considering AAI Upfront Fee as part of equity	Discussed in Para 14.38 to Para 14.42	MIAL have considered AAI Upfront Fee as part of equity.	As per discussion in Tentative Decision No19, the Authority has tentatively decided not to consider AAI Upfront Fee as part of equity.

Sl. No.	Sensitivity Analysis parameter	Details of sensitivity analysis parameter	Assumptions of MIAL	Authority's review
12.	Future cost of debt	Discussed in Para 12.10 to Para 12.25	MIAL have proposed increased rates of interest for the term loan contracted by MIAL after reset. Loan facilities getting reset in FY 13 and FY14 are projected to attract rates of 12% and 12.5% while the loan facilities to be drawn in FY 13 are projected to attract rates of 11.5%.	As per discussion in Tentative Decision No16, the Authority has tentatively decided to consider the actual weighted average rate of interest incurred by MIAL as the cost of debt for FY 13 and FY 14 subject to the provision of ceiling.
13.	Change in quantum of Internal Resource Generation as part of means of finance	Discussed in Para 3.16 to Para 3.39	MIAL have considered internal accrual of Rs 2,471 crores being generated from PAT.	As per discussion in para 3.16 to para 3.39, the Authority has tentatively decided to consider Internal Resource Generation of Rs 1,151.26 crores and also tentatively decided to provide WACC as the return on this internal resource generation
14.	Exchange rate between INR and USD	Discussed in Para 17.70 to Para 22.a	MIAL have considered an exchange rate of INR 45 per USD.	As per discussion in Tentative Decision No22, the Authority has tentatively decided to consider an exchange rate of INR 54.03 per USD.
15.	Corporate Tax for determinat ion of target revenue	Discussed in Para 18	MIAL have considered an approach of gross-up on profit after tax for determination of tax to be considered for determination of target revenue.	As per discussion in Tentative Decision No24, the Authority has tentatively decided to consider tax as applicable on actual / projected aeronautical revenue based on regulatory accounts.
16.	Inflation	Discussed in Para 23	MIAL have considered a CPI-IW inflation of 8.94% for FY 13 and FY 14.	As per discussion in Tentative Decision No34, the Authority has tentatively decided to consider CPI-IW inflation of 9.40% for FY 2013 and CPI-IW inflation of 7.80% for FY 2014.

24.2. The MIAL's calculations of 'CPI-X' factor of 664% was based on the revised proposed tariffs being implemented with effect from 1st July, 2012. In view of the Authority's tentative decision to consider 01.01.2013 as the effective date of tariff hike and discussion presented in para 1.37, the base value of X-Factor considered by the Authority is (-)873.36%. The impact on X-factor of various tentative decisions of the Authority has been presented in the Table 124: Summary of Sensitivity – Impact on X-Factor and the sensitivities have been presented against the base value of (-)873.36%.

24.3. This Sensitivity is given in the following Impact Table. The base case relates to X-factor calculated as on 01.01.2013 and based on MIAL submissions on various building blocks. X-factor in the base case works out to (-)873.36%. This is then compared to X-factor calculated for each of the building blocks according to the Authority's analysis.

Table 124: Summary of Sensitivity – Impact on X-Factor against the Base Case as per MIAL submissions, frozen model and increase effective from 1st Jan 2013: (-) 873.36%

Building Blocks	Sensitivity Parameter	Result of sensitivity
Non-Aero Revenue	Treatment of Cute Counter Charges (Considering Cute Counter Charges as AERO)	(-)869.99%
Non-Aero Revenue	Revenue from Cargo service considered as Aeronautical Revenue (When provided by the Airport Operator) and Demurrage considered as part of Cargo revenue	(-)739.15%
Non-Aero Revenue	FTC considered as Aeronautical service and Revenue from FTC considered as Aeronautical revenue	(-)908.38%
RAB	Project cost disallowances and non-inclusions	(-)867.65%
	Retirement compensation to be expensed out	(-)829.15%
Hypothetical RAB	30% of Non Aero not to be included in Hypothetical RAB	(-)446.38%
	54 crs of exceptional item to be included in the expenses for calculation of Hypothetical RAB	(-)750.26%
	Authority WACC to be used for Hypothetical RAB instead of Bid WACC	(-)919.73%
Cost of Equity	Cost of Refundable Security Deposit considered as 0%	(-)812.16%
	Cost of Equity at 16% and Cost of Refundable Security Deposit considered as 0%	(-)587.37%
	Not considering AAI Upfront fee as part of Equity	(-)854.37%
Cost of Debt	Future cost of debt considered at actual weighted average cost of debt till FY 12	(-)857.07%
Change in Quantum of Means of Finance	Considering cash and depreciation as Internal Resource Generation instead of MIAL proposed internal accruals	(-)719.32%
US Dollar Rate	Considering US Dollar Rate based on last 6 months average of INR-USD exchange (=54.03)	(-)872.65%
Corporate Tax	Corporate Tax as on Projected Aero Revenue instead of MIAL proposed tax calculation	(-)795.42%
Inflation	Inflation for FY 13 taken as 9.40% and for FY 14 taken as 7.80% as per RBI forecasts	(-)881.09%
Summary of all sensitivity (Cumulative Impact on X-factor) effective from 01.01.2013		(-)66.24%

Building Blocks	Sensitivity Parameter	Result of sensitivity
Summary of all sensitivity (Cumulative Impact on X-factor) effective from 01.01.2013 - All the building blocks have been considered in line with the tentative views of the Authority on each one of them but treating cargo revenue as non-aeronautical revenue for the entire control period, in accordance with the Government's interpretation (Refer para 20 and Tentative Decision No28)		(-)151.56%

24.4. The Authority has accordingly calculated the target revenue with respect to the 'X' factor as of 1st January, 2013 at (-)151.56% as compared to (-)873.36% given by MIAL in Table 125 below.

Table 125: Target Revenue Calculation for the current control period

(Rs in crores)	**2009-10**	**2010-11**	**2011-12**	**2012-13**	**2013-14**
Regulatory Base	1,713.21	2,069.56	2,429.85	3,213.14	5,994.63
WACC	10.77%	10.77%	10.77%	10.77%	10.77%
Return on Capital Employed	184.50	222.88	261.68	346.03	645.57
OM - Efficient Operation & Maintenance cost	394.49	186.18	320.54	565.25	639.39
Depreciation	89.35	126.07	149.57	183.98	322.03
Corporate Tax	-	32.61	3.71	-	50.33
Share of Revenue from Revenue Share Assets	151.52	203.76	237.15	221.94	226.92
Target Revenue	516.82	363.99	498.35	873.32	1,430.40
Discounted Target Revenues @10.77%	466.57	296.65	366.67	580.09	857.75
Total Present Value of Target Revenues	2567.75				
Actual Aero Revenues	479.82	490.34	511.53	745.19	1,440.13
Discounted Actual Revenues@10.77%	433.17	399.63	376.37	494.99	863.59
Total Present Value of Actual Revenues	2567.75				

Tentative Decision No35. Regarding X-factor

35.a. **The Authority tentatively proposes to use the X-factor at (-)151.56% in the current determination of tariff for aeronautical services in respect of CSI Airport, Mumbai for the current control period.**

Truing Up: 11. **Correction / Truing up for Tentative Decision No35**

11.a. The Authority tentatively proposes to true-up the above X-factor, based on truing-up of other parameters impacting on the calculation of the said X-factor, at the end of the current control period and its effect will be considered in the next control period.

25. Issue of 10% increase

25.1. This issue has been discussed in detail in the para 1.10 to 1.23 above. As brought out in the section relating to sensitivity analysis, the draft determination is resulting in X factor of (-)151.56%, which would result in a one-time increase of 160.96% (on account of CPI-X) in the airport charges on 1st January 2013, over and above the 10% increase (which MIAL received in March' 2009) in Base Airport Charges.

25.2. In view of the proposed increase in tariff, the Authority further feels that the issue of allowing a 10% year-on-year increase in Base Airport Charges, as claimed by MIAL, has become an issue of academic interest only.

Tentative Decision No36. Regarding issue of 10% increase in aeronautical tariff

36.a. **The Authority's present approach is in consonance with the covenants of the SSA.**

26. Quality of Service

26.1. As per section 13 (1) (d) of the Act, the Authority shall monitor the set performance standards relating to quality, continuity and reliability of service as may be specified by the central government or any authority authorised by it in this behalf.

26.2. Besides these functions relating to monitoring of set performances standards the Authority is required to determine tariff, inter alia taking into consideration Section 13 (1) (a)(ii) " …the service provided, its quality and other relevant factors;……"

26.3. Therefore, in the scheme of the Act, the Authority has two mandates relating to quality of service – first, to consider the quality of service for determination of tariff and secondly, to monitor the set performance standards relating to quality of service. These are two distinct functions - one relates to determination of tariff whereas another relates to monitoring of set performance standards.

26.4. As per Principal no.7 of Schedule 1 of SSA- "in undertaking its role AERA will monitor, pre-set performance in respect to service quality performance as defined in the Operations Management Development Agreement (OMDA) and revised from time to time."

26.5. It is submitted that OMDA already lays down detailed quality parameters / requirements.

26.6. Chapter IX of OMDA deals with Service Quality requirements. It prescribes both Objective and Subjective Service Quality requirements.

26.7. Clause 9.1.2 of OMDA prescribes that the JVC shall, within the time frame mentioned therein, achieve the Objective Service Quality Requirements set out in Schedule 3. It is also provided in the above clause of OMDA that the JVC shall on a quarterly basis, measure compliance of Objective Service Quality Requirements in accordance with Schedule 3 and provide compliance reports to AAI in a timely manner.

26.8. Further, it is provided in the above clause of OMDA that:

> *"At any time after the JVC is obligated to achieve and maintain a particular Objective Service Quality Requirement, in the event that the immediately succeeding quarterly report show that the Airport (or any part thereof) is rated below the respective Objective Service Quality Requirement, the JVC will achieve the particular Objective Service Quality Requirement within 30*

days of the last submitted quarterly report. Should the JVC fail to achieve the above, or if the Airport (or any part thereof) continues to perform below the targets mentioned in Schedule 3, the JVC shall pay to the AAI 0.5% of the monthly Revenue (prior to default) for every month, that the standards are below any of the Objective Service Quality Requirements, for each such performance area, as liquidated damages provided however that the total liquidated damages payable hereunder shall not exceed 1.5% of the monthly Revenue (prior to default)."

26.9. Clause 9.1.3 of OMDA prescribes Subjective Service Quality requirements (set out in Schedule 4). The clause prescribes that the JVC shall, commencing from the first anniversary of Effective Date, and thereafter every quarter, participate in the IATA/ACI AETRA passenger survey.

26.10. The clause 9.1.3 of OMDA further prescribes that the JVC shall ensure that, at the completion of the implementation of Stage 2 of the Initial Development Plan, the JVC achieves a rating of 3.75 in the IATA/ACI AETRA passenger survey or greater and maintains the same throughout the Term.

26.11. Further, it is also provided in the above clause of OMDA that:

"The JVC shall at all times during the Term hereof make best endeavours to ensure improvement of the Airport in the IATA/ACI AETRA passenger surveys. After the completion of Stage 1, the Airport target rating shall be 3.5; provided however that after the completion of Stage 2, the Airport target rating shall be 3.75. The target rating of 3.5 on the IATA/ACI AETRA passenger surveys after the completion of Stage 1, and 3.75 after the completion of Stage 2, as furnished in the report as per sub-clause (b) above, is hereinafter referred to as "Target Rating". At any time after the completion of Stage 1 or Stage 2, in the event that two successive quarterly IATA/ACI AETRA passenger surveys show that the Airport is rated below the applicable Target Rating, then the JVC shall pay to the AAI 2.5% of the monthly Revenue (prior to default) for every month that the standards are below the Target Rating by more than 0.1 points and 1.25% of the monthly Revenue (prior to default) for every month in the event the standards are

below the Target Rating by less than 0.1 points, as liquidated damages; provided however that the maximum period that liquidated damages shall be paid hereunder shall not exceed a period of 6 months."

26.12. The Authority had issued Order no 13/2010-11 dated 12.01.2011 in the matter of Regulatory Philosophy and Approach in Economic Regulation of Airport Operators. Before the issue of the above said order, the Authority had issued a Consultation Paper seeking responses from the stakeholders on the Regulatory Philosophy and Approach in Economic Regulation of Airport Operators. Stakeholders raised some concerns relating to quality of service among other issues.

26.13. In clause 12 of the Airport Order, the Authority specified that it had considered concerns raised by the stakeholders and decided, inter alia, as under:

i) The Authority will consider the provisions and consequently the effect of concession agreements for the concerned airports while / at the time of determining tariffs for the first tariff cycle.

ii) The Authority has also considered the concerns raised with respect to equal weights being assigned for each objective service quality measure for the purpose of calculating rebates on aeronautical charges. The Authority considers the argument in favour of specifying different weights for different objective service quality measures, taking into consideration its importance to users and efficient airport service delivery, as reasonable on purist grounds. But, the Authority believes that the relative importance of different objective service quality measures is best judged by users of such services and the Authority would like to adopt a user agreed system of relative weights in future regulatory periods / tariff determination cycles. However, for the first tariff determination (control) period, in absence of such informed judgement from users, the Authority is specifying equal weights for each objective service quality parameter for rebate calculation purposes. Accordingly, the Authority hereby specifies that under-performance with respect to specified benchmark for each objective service quality measure will *have a monthly rebate incidence of 0.25% of aeronautical revenue, subject to an overall cap of 1.5%.*

iii) With respect to subjective service quality parameters, concession agreements for DIAL, MIAL, BIAL and GHIAL specify a target rating of 3.5 on passenger satisfaction survey for subjective service quality assessment, but not for individual items. The Authority is now adopting an overall benchmark of 3.5 on the Airports Council International's Airport Service Quality (ACI ASQ) survey for subjective quality of service assessment to be undertaken by all major airports.

iv) Further, the Authority believes that in order to progressively ensure better service quality performance within the control period, it would be appropriate to prescribe a higher overall benchmark for fourth and fifth years of the first control period. Accordingly it has decided that the overall benchmark for subjective quality requirements for the fourth and fifth year of the first control period shall be 3.75 on the ACIASQ survey.

v) The Airport Operators, however, will be required to periodically (quarterly) report their performance on the overall measure as well as with respect to each subjective service quality parameter in the survey through quarterly quality of service reporting.

vi) The Authority hereby specifies that under-performance with respect to specified benchmark for subjective service quality criteria will result in a monthly rebate incidence of 2.5% of aeronautical revenue.

vii) The Authority has also considered the issue of specifying a transition period for implementation of the scheme of quality of service measurement and determination of any rebates as relevant for major airports. Such transition period as may be required for each major airport shall be considered and specified at the time of respective tariff determinations based on review of the extant *quality of service monitoring arrangements and procedures at each major airport, requirements under the respective concession agreements, etc. The Authority believes that in any case a maximum transition period of 1 year from the date of tariff determination would be a reasonable time for Airport Operators to appropriately align their processes / procedures and make any other required interventions.*

viii) *Airport Operators would be required to develop a comprehensive performance measurement plan to operationalise the same. The proposed performance measurement plan would need to be submitted by Airport Operators along with tariff proposals for review and approval of the Authority. The performance measurement plan: would also be required to be updated annually for changes in monitoring-related aspects like busiest hour of the day, etc. Such an implementation framework will accordingly address the requirement to specify seasonality and periodicity of monitoring, etc.*

26.14. Under clause 17 of the Airport Order, the Authority further specified as under:

a) *While the Authority will discharge its other functions under the Act with respect to monitoring the set performance standards as may be specified by the Central Government (Section 13 (1) (d) of the Act), it will, in accordance with the provisions of Section 13(1)(a)(ii) of the Act, take into consideration the quality of service provided by Airport Operators on specified parameters and measures while determining tariffs.*

b) *The Authority will require the specific service parameters to be measured at major airports. It hereby adopts a mechanism that will consider reduced tariffs for under-performance vis-a-vis specified benchmarks on quality of service to adequately protect the interest of users.*

c) *Under such a mechanism, the calculated level of rebate for a year will be passed on to users of airport services in the form of reduced tariffs in the following year(s).*

26.15. An argument which can be raised against the rebate mechanism could be that since OMDA itself provides for penalty mechanism in the event of default in respect of quality parameters, a separate rebate mechanism as part of tariff would tantamount to penalising the default twice. However, it has been the stated position of the Authority that the penalties contemplated in the concession agreements are contractual requirements whereas fixation of tariff commensurate with the quality of service is a statutory requirement. Therefore, the system of reducing tariff in case of default in quality of service is a system which implements the mandate of the Act.

26.16. In view of the above, it is proposed that the rebate mechanism as indicated in Airport Order dated 12.01.2011 and the Airport Guidelines dated 28.02.2011 may be followed in the case of MIAL

Tentative Decision No37. Regarding Quality of Service

37.a. **The Authority tentatively decided, as specified by the Government, to monitor the performance standards as laid down in the OMDA. Since OMDA provisions have a provision of liquidated damages to be paid to AAI, should the quality of service not be achieved, the Authority tentatively decided that for the current control period it will not impose rebate mechanism in addition to the liquidated damages mechanism in OMDA.**

27. Tariff Structure/ Rate Card

27.1. MIAL, vide their letter No. MIAL/CFO/304 dated 27.08.2012, submitted their Annual Tariff Proposal(s) for the FY 2012-13 and 2013-2014 effective 1st July, 2012. MIAL, in their ATP, submitted as under:

> *"Mumbai International Airport Private Limited (MIAL) has filed its Multi-Year Tariff Proposal (MYTP) dated 11.10.2011 with Hon'ble Airports Economic Regulatory Authority of India (Hon'ble Authority) for approval of its Target Revenue Requirement, hike required in existing tariffs and revised amount/rate of Development Fee. The MYTP was prepared as per the principles and methodology specified in Schedule 1 of the State Support Agreement (SSA) read with relevant provisions of Operation, Management and Development Agreement (OMDA). We also .refer to various meetings held with the Authority in connection with the above and further submissions made by us in the matter from time to time. Based upon our last submission, attached please find proposed Annual Tariff Proposal (ATP) for FY 13 & FY 14 ...."*
>
> *"This is to inform the Authority that cost of Security equipment is currently not included in the project cost since the same is projected to be funded from PSF - Security component account PSF (SC). However if considering recent developments MoCA issues any direction contrary to the same or does not allow MIAL to meet such cost from PSF (SC) account than cost of such security equipment will have to be included in RAB. Authority will be informed as and when such directions/ instructions are received.*
>
> *With a view to ensure safety at CSIA, MIAL had to resort to introduction of Penal charges as per Schedule 1 attached (with effect from 1st July 2012) to discourage unauthorized stay of non CSIA based GA aircraft at CSIA. This is a penal charge and not a parking charge and hence should be treated as Non Aero revenue.*

27.2. Further, MIAL also requested that:

"The UDF rate mentioned in the ATP for FY13 and FY14 includes the collection charges assuming Rs.2.5 per departing passenger. The ATP for FY14 is indicative and subject to change as per the business requirement, keeping the overall proposed revenue same.

We request the Authority;

i) to make suitable changes in airport charges if our appeal before AERAAT in the matter of FTC is decided in our favour.

ii) to make suitable changes in the airport charges taking into account additional expenditure on security equipments, if any.

iii) to true up deficit in Projected/ Proposed revenue, if any, considering changes in traffic, traffic mix, MTOW of Aircraft and usage of Aerobridges."

27.3. However, vide their further submission dated 14.09.2012, MIAL submitted a revised ATP considering the revision in tariff effective from 01.01.2013. The revised rate card assumes a tariff hike of 881.28% to be effective from 01.01.2013 and a further hike linked to inflation of 8.94% has been assumed to be effective from 01.04.2013. Further MIAL have also assumed the revised DF hike to be effective from 01.01.2013.

27.4. MIAL requested the Authority to allow a time of around 4 weeks from the date of order for implementation of the new tariff order and also requested that total shortfall in collection of UDF for the current control period. MIAL submitted as under:

"MIAL would request the Authority to kindly allow a time of around 4 weeks from the date of order for implementation of the new tariff order. Further it is requested that total shortfall in collection of UDF for this control period (i.e. due to difference between number of passengers considered in MYTP and actual number of passengers from whom UDF is collected) be trued up fully considering the fact that international tickets are issued well in advance (almost a year) and domestic tickets are also issued 3-6 months in advance and it will be impossible to collect UDF from passengers individually at the airport."

27.5. MIAL, in their revised ATP dated 14.09.2012, submitted for approval the charges in respect of the following heads of revenue:

27.5.1. Landing and Parking charges;

27.5.2. Aerobridge Charges;

27.5.3. User Development Fee (UDF) on departing passengers.

27.6. MIAL further submitted that the Landing, Parking and Aerobridge charges are fixed and for any change in the proposed revenue, adjustment should be made only in UDF which is balancing figure. The ratio between rate of Domestic and International UDF per passenger is to be maintained as 1:2.

27.7. MIAL have also introduced Slot charges in their Annual Tariff proposal. MIAL have stated that:

> *"Given the runway capacity constraints faced by CSIA and the fact that CSIA should be operating at its peak capacity to sustain the demand in most part of the day, maximum utilisation of the available slot is of utmost importance making it necessary that the non-utilization of slots is effectively checked. The value of slots, if not utilized, is lost forever and cannot be recovered in any manner. Accordingly, in order to increase overall operational efficiency leading to lower charges for users, MIAL is making this proposal to deter the misuse of scheduled and unscheduled slots allocated to air carriers.*
>
> *Inspite of MIAL's active monitoring of slots there are still quite a few airline operators who obtain the slots but do not adhere to it resulting in sub-optimal utilization of the existing infrastructure, the load of which is ultimately passed on to passengers. In view of the above it is proposed to levy this charge as follows:-*
>
> *"In case allocated slots remain unused due to purely commercial consideration than in such cases after 2 instances of slot remaining unutilized, slot charges equivalent to landing charges as mentioned above, depending upon international or domestic slot, shall be recovered from 3rd instance onwards."*

27.8. The Authority notes that Principle 10 in the Schedule 1 of SSA provides as under:

“ 10. Pricing responsibility: Within the overall price cap the JVC will be able to impose charges subject to those charges being consistent with these pricing principles and IATA pricing principles as revised from time to time including the following:

i) Cost reflectivity: Any charges made by the JVC must be allocated across users in a manner that is fully cost reflective and relates to facilities and services that are used by Airport users;

ii) Non-discriminatory: Charges imposed by the JVC are to be non discriminatory as within the same class of users;

iii) Safety: Charges should not be imposed in a way as to discourage the use of facilities and services necessary for safety;

iv) Usage: In general, aircraft operators, passengers and other users should not be charged for facilities and services they do not use ”

27.9. Thus, the SSA contemplates that MIAL would be free to impose charges within the overall price cap subject to conditions stated therein. In view of this, for the present, the rate card proposed by MIAL is placed for stakeholder consultation.

27.10. In addition to the items of charges proposed by MIAL in their tariff card (refer para 27.5 above), the Authority has in the above sections also treated the following as aeronautical revenues for the purpose of current tariff determination, which MIAL have treated as non-aeronautical. The charges are as under:

27.10.1. Fuel Throughput charges (Discussed in para 20.27 to para 20.50)

27.10.2. CUTE Counter charges (Discussed in para 20.51 to para 20.60)

27.10.3. Parking Charges for Non CSIA based General Aircrafts (Discussed in para 20.62 to para 20.71)

27.11. The Authority’s treatment with respect to cargo and demurrage charges is set out separately in Tentative Decision No28.

27.12. In addition to the above, the Authority also proposes to approve the DF determined vide Tentative Decision No4 above along with the tariff card.

27.13. As regards the new slot charge proposed by MIAL, the Authority is informed that the same is not prevalent in practice and invites stakeholder comments to enable the Authority to take a final view in the matter.

27.14. MIAL, vide their submission dated 13.09.2012, submitted that they have been collecting FTC @ Rs. 561.75/ KL for FY 2011-12 pending approval of the Authority and since the FY 2011-12 has already elapsed without any increase in FTC rates, pending approval of AERA, MIAL have updated FY 2011-12 FTC revenue based on actual and taken arrears upto FY 12 to FY 13 (amounting to Rs. 5.81 crs.). MIAL have included the increased charges retrospectively from FY 2011-12 in the MYTP since the increase is as per signed agreement with the oil companies and increase is pending only for the approval of the Authority.

Table 126: Rates proposed to be charged by MIAL in respect of FTC

	FY 10	*FY11*	*FY 12*	*FY 13*	*FY14*
				Projected	
FTC Rate/ KL (Rs.)	*535.00*	*561.75*	*601.07#*	*643.15*	*688.17*
Increase in %		*5.00%*	*7.00%*	*7.00%*	*7.00%*
Revenue (Rs . Crs.)	*73.17*	*79.96*	*82.95*	*104.66*	*108.74*
Arrears in Revenue of FY 12 proposed to be collected in FY 13 (Rs. Crs.)				*5.81*	

"#-MIAL has been collecting FTC @ Rs. 561.75/ KL for FY 12 pending approval of the Authority. Since FY 12 has already elapsed without any increase in FTC rates, pending approval of AERA, MIAL has updated FY 12 FTC revenue based on actual and taken arrears upto FY 12 to FY 13 (amounting to Rs. 5.81 crs.). MIAL has included the increased charges retrospectively from FY 12 in the MYTP since the increase is as per signed agreement with the oil companies and increase is pending only for the approval of the Authority."

27.15. The Authority accordingly proposes the rates indicated in Table 126 in respect of FTC for stakeholder consultations.

27.16. CUTE Counter charges - MIAL submitted that they receive counter charges (Rental charges) from the airlines for the counters utilised by them for checking/ processing of passengers. MIAL submitted that they only provide the bare counters and that necessary hardware and software is directly procured by the airlines from outsourced service provider.

MIAL have stated that no capital expenditure has been incurred by them towards Hardware or software and no service is being provided by the airport operator to airlines/ passengers and that this charge is like any other rentals, hence of non-aeronautical nature. Therefore it should be considered as Non Aeronautical for the purpose of computing cross subsidy. The rates being charged by MIAL for the domestic and International counters are as under:

Table 127: Rates being charged by MIAL for the domestic and International CUTE counters

Counter Type	Rates per month / Counter
Domestic Counter –NACIL	Rs. 5000/-
Domestic Counter – Other Airlines	Rs. 6500/-
Mobile Counter	Rs. 2500
International Flights (excepting NACIL flights)	Rs. 1500 per departing flight

27.17. Charges for Cargo operations and Demurrage – MIAL submitted that these charges have remained same effective April 2009 and no increase is currently proposed into the same.

27.18. The Authority has noted MIAL's submission dated 14.09.2012, presented in para 27.6, to consider UDF as the balancing figure while keeping Landing, Parking and Aerobridge charges as proposed by MIAL in its tariff / rate card fixed. The Authority had an occasion to tentatively calculate the quantum of UDF in connection with the treatment of cargo revenue and has presented the values of UDF in Table 111 based on certain assumptions as stated therein.

Tentative Decision No38. Regarding Tariff Structure / Rate Card

38.a. **The Authority tentatively calculates the X factor for the tariff determination w.e.f 01.01.2013 at (-)151.56% on a one time basis during the Control Period. Hence the X factor for the tariff year 2013-14 is zero.**

38.b. **The Authority tentatively notes the tariff structure and rate cards for the tariff years 2012-13 and 2013-14 as appended hereto (corresponding to tariff hike (CPI – X) of 881.28%). The Authority also notes MIAL's request to determine UDF as a balancing tariff item. The Authority accordingly proposes to finally determine UDF broadly proportionate to the reduction of X-factor in its Final Order. However, the Authority further proposes to keep the rate of UDF as constant till the end of the current control period.**

38.c. **The Authority tentatively decided to determine the rates for FTC as per Table 126 above for the current control period.**

38.d. **The Authority tentatively decided to determine CUTE counter charges as per Table 127 above for the current control period.**

38.e. **The Authority tentatively decided to determine enhanced parking charges for GA Aircrafts beyond the slot allotted and not having usual station at CSIA as per Table 115 above for the current control period.**

38.f. **The Authority tentatively decides that the rates for 2012-13 would be effective from 01.01.2013 and the rates for 2013-14 will be effective from 01.04.2013.**

User Development Fee

27.19. The Authority noted that, presently, PSF being collected at CSI Airport, Mumbai comprises two components [PSF Security component (SC) – Rs.130 per embarking passenger and Facilitation Component (FC) - Rs.77 per embarking passenger]. The Authority has noted MIAL's submission dated 13.09.2012 on levy and collection of UDF. The Authority has decided that the facilitation component of the PSF (namely Rs 77/- per embarking passenger) will now form part of the UDF proposed in tariff/rate card, and that PSF will comprise only of the security component (namely Rs 130/- per embarking passenger). The Authority notes that MIAL have requested for truing-up total shortfall in collection of UDF for the current control period (i.e. due to difference between number of passengers considered in MYTP and actual number of passengers from whom UDF is collected).

27.20. In terms of implementation of UDF levy, the Authority is aware that if the levy of UDF is made effective along with the date of tariff hike i.e., 01.01.2013, it may require gate collection of UDF, as there may be passengers, who would have purchased tickets prior to the effective date of levy of UDF and hence would not have paid the same as part of the airline ticket. The Authority further notes that while the gate collection of UDF may cause operational inconvenience at the airport, it would imply lower rate of UDF, as the total UDF collection would be distributed over larger number of passengers and over longer period. It would also practically eliminate the requirement of truing-up of shortfall in UDF collection, if any, on account of difference in the date of levy of UDF from the date of tariff hike.

27.21. In another option, the Authority, considering MIAL submission that international tickets are issued almost a year in advance and domestic tickets are issued around 3-6 months in advance, may like to defer the date of levy of domestic UDF by three (3) months and the date of levy of international UDF by six (6) months. Under this option, the Authority feels that the requirement of gate collection of UDF may be considerably reduced thus reducing the operational inconvenience at the airport.

27.22. The Authority, further, feels that even in case the levy of UDF is made effective along with the date of tariff hike i.e., 01.01.2013, the period available for collection of UDF within the current control period would be fifteen (15) months. MIAL, in their ATP, have proposed an inflationary increase in the UDF rate effective from 01.04.2013. The Authority feels that it would be practical to keep the rate of UDF at same level for the entire period of 15 months.

27.23. In view of the above, the Authority is inclined to present the following alternatives to the stakeholders and based on the views expressed by the stakeholders, would decide on the final approach with regards to levy of UDF:

27.23.1. To accept MIAL's request for levy of UDF along with the date of tariff hike, i.e. 01.01.2013 and true-up of any shortfall in UDF collection

27.23.2. To levy domestic UDF three (3) months after the date of tariff hike i.e., 01.04.2013 and international UDF six (6) months after the date of tariff hike i.e., 01.07.2013

Truing Up: 12. **Authority will consider the following options based on stakeholder consultation:**

12.a. To accept MIAL's request for levy of UDF effective from 01.01.2013 and truing-up any shortfall in UDF billing

12.b. To levy UDF from 01.04.2013 for domestic passengers and 01.07.2013 for international passengers without any truing-up of shortfall in UDF billing

Collection Charges for DF, UDF and PSF

27.24. Collection Charges over Development Fee (DF): MIAL, vide their submission dated 26.06.2012, submitted that they are required to pay collection charges of Rs. 5 per international embarking pax and Rs. 2.5 per domestic embarking pax to airlines. MIAL stated as under,

> *"MIAL has been sanctioned to collect DF amounting Rs. 876 Crs. over a period of 23 months effective from 1st May 2012. As per AIC issued by DGCA, MIAL is required to pay collection charges of Rs. 5 per international embarking pax and Rs. 2.5 per domestic embarking pax to airlines. Since the charges paid are cost to the Company the same is taken to the Operating expenses. We request the Authority to approve the collection charges on DF as the same was mandated under the AIC dated 30th April 2012, issued by DGCA and accordingly being incurred by MIAL."*

27.25. Collection Charges over Passenger Service Fee (PSF) / User Development Fee (UDF): MIAL, vide their submission dated 26.06.2012, requested the Authority to allow collection charges at the rate Rs 3 per arriving passenger and Rs 2.50 per departing passenger for both UDF and PSF. MIAL stated as under,

> *"MIAL requests the Authority to allow collection charges at the rate Rs. 3 per arriving passenger and Rs 2.50 per departing passenger for both UDF and PSF, since the same is cost to the company."*

27.26. MIAL, vide their submission dated 24.07.2012, reiterated their earlier request with regards to the collection charges. MIAL stated as under,

> *"Collection charges on DF were decided by MoCA at the time of initial approval, which now needs to be approved by AERA.*
>
> *Similarly collection charges on PSF were earlier decided by MoCA and therefore such charges for UDF now needs to be approved by AERA."*

27.27. The Authority has noted MIAL submissions with regards to collection charges for DF and UDF / PSF. The Authority noted that the facilitation component of the existing PSF at CSI Airport, Mumbai will be merged with the UDF, which is being considered by the Authority for levy at CSI Airport, Mumbai under the current tariff determination exercise. Further the Authority also notes that PSF (security component) is not a subject matter of the current tariff determination and hence shall continue to be levied at the existing rates mentioned in para 27.19. Accordingly no collection charge is to be considered separately for UDF and separately for PSF (facilitation).

27.28. The Authority further noted that MIAL in their tariff / rate card, filed before the Authority for approval, have not proposed any UDF for arriving passengers and hence the collection charge of Rs 3 per arriving passenger, requested by MIAL through submission dated 26.06.2012, is not applicable. As regards the UDF collection charge of Rs 2.5 per departing passenger, requested by MIAL through submission dated 26.06.2012, the Authority notes that as a practical mechanism the passenger related charges are collected through airline tickets. The Authority further notes that as per the MoCA's letter No.G.29011/001/2002/AAI dated 25.03.2001, the collection charges of 2.5% were allowed for collection of PSF. The Authority, in view of the same, is inclined to consider MIAL submission of Rs 2.50 per departing passenger towards collection of PSF (Facilitation) / UDF.

27.29. The Authority also noted from MIAL's submission dated 27.08.2012 that the UDF rates proposed by MIAL in their tariff / rate card include collection charge of Rs 2.5 per embarking passenger. Hence this collection charge is to be removed from the UDF rates proposed by MIAL before making any adjustment in UDF on account of the X-factor as may be determined by the Authority. The treatment of this collection charge is separately indicated in the Authority's tentative decision no 39.b

27.30. In respect of the collection charges for DF, the Authority has had reference to the AIC SL. No. 5/2012, dated 22.06.2012, issued by DGCA. The said AIC, in respect of collection charges states as under,

> *"…………….*
>
> *2. In order to obviate inconvenience to passengers and for smooth and orderly air transport / airport operations, it has been decided that all the airlines shall collect the Development Fees (DF) from passengers at the time*

of issue of air ticket and remit the same to Mumbai International Airport Pvt. Ltd. (MIAL) in line system/procedure in vogue in respect of collection of PSF. For this, collection charges not exceeding Rs. 5/- per international passenger and Rs. 2.50 per domestic passenger shall be receivable by the airline from MIAL, which shall not be passed on to the passengers in any manner………………..”

27.31. In view of the collection charges specified in the said AIC, the Authority noted that DGCA had allowed a collection charge of Rs 5/- per international passenger and Rs 2.50 per domestic passenger towards collection of DF. However, the request of MIAL to defray this collection charge as an operating expense does not appear to be acceptable because as per the provisions of Section 13 (1) (b) of the Act read with Section_22A of the AAI Act, 1994, the Authority‘s function in respect of DF is confined to determination of the rate/amount thereof. Further, the issue of collection, deposit etc., of DF is not within the purview of the Authority. Hence the Authority proposes not to accept the request for defraying the collection charges.

Tentative Decision No39. Regarding collection charges on DF, PSF and UDF

39.a. **The Authority tentatively decided not to allow any collection charges on DF to be defrayed as an operating expenditure.**

39.b. **The Authority tentatively decided to delink the Facilitation Component from the existing PSF at CSI Airport, Mumbai and consider it as part of the UDF, as proposed by MIAL in the rate card and as may finally be determined by the Authority. The Authority tentatively decided to consider an amount of Rs. 2.50 to be collected per departing passenger towards collection charge for UDF.**

Discount on domestic scheduled landing

27.32. The Authority noted from MIAL submission that MIAL have proposed to modify the reduction in Landing charges for Domestic flights of scheduled airlines from 15% to 5% in case payments are made within 15 days credit period. MIAL’s submission dated 26.06.2012 in respect of the same is as under, *"MIAL vide its letter MIAL/CFO/217 dated 2nd May 2012 sent to AERA had modified reduction in Landing charges for Domestic flights of scheduled airlines from 15% to 5% in case payments are made within 15 days credit period. Necessary changes have been made into MYTP model for the same."*

27.33. MIAL vide their submission dated 31.07.2012, submitted as under,

"…………

We note that the Authority's Order No 03/2012-13 of 20th April 2012 in respect of DIAL for IGI Airport, New Delhi that such reduction is a commercial decision of the Airport Operator and Authority will not permit any adjustment on account of under recoveries due to such reduction while determining tariff for the Airport. It implies that it is prerogative of airport operator to decided extent of such reduction in landing charges. In view of the above, MIAL has decided to modify the reduction in landing charges from 15% to 5% w.e.f. 15th May 2012.

…….."

27.34. The Authority has deliberated the issue of treatment of discounts on all domestic scheduled landings in its DIAL Tariff Determination Order and accordingly the Authority proposes not to consider any adjustments on account of discount.

Tentative Decision No40. Regarding discount on all domestic scheduled landings

40.a. **The Authority tentatively decided not to consider any adjustments on account of discount.**

Rates / tariff for Cargo services

27.35. MIAL, in addition to being the airport operator at CSI Airport, Mumbai, is also providing services for cargo facility at the airport. MIAL has informed that it has outsourced the domestic cargo services to M/s CONCOR. Further, it is in the process of outsourcing the international cargo services to a third party concessionaire. However, as of now MIAL is providing the international cargo services itself. In this regard, the Authority noted that MIAL has included the details of fixed assets, expenses, staff etc. costs towards the cargo operations handled by it as part of the MYTP submissions. However, these assets, costs/expenses are not being factored-in in the determination of Annual Revenue Requirement (ARR) in respect of MIAL (as Airport Operator).

27.36. As discussed above in para 20.1 to 20.26, the Authority has noted that as per section 2(a)(vi) of the act, the services provided for cargo facility at an airport is an *"aeronautical service"*. Further, CSI Airport, Mumbai being a major airport, the tariffs for such aeronautical services, namely cargo facility service, is to be determined by the Authority under Section 13(1)(a) of the Act.

27.37. In respect of determination of tariffs for aeronautical services pertaining to cargo facility, ground handling and supply of fuel to an aircraft, the Authority had finalised its regulatory philosophy and approach and issued Direction No. 4/2010-11 in the matter of "Airports Economic Regulatory Authority of India (Terms and Conditions for Determination of Tariffs for Services Provided for Cargo Facility, Ground Handling and Supply of Fuel to the Aircraft) Guidelines, 2011" (hereinafter referred to as the CGF Guidelines).

27.38. While determining these tariffs, as per the provisions of CGF Guidelines, the Authority had decided to follow a three stage process: (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. The Materiality Index with respect to cargo facility service at a major airport was decided to be determined based on the information obtained in respect of such cargo service as the percentage of volume of cargo at the subject airport vis-à-vis the total cargo volumes at all major airports. In case the Materiality Index computed for an airport is equal to or more than 2.5% then the cargo facility service at such major airport was decided to be deemed "Material". Otherwise, in case Materiality Index was below 2.5%, then the service provided for cargo facility at the airport was decided to be deemed "Not Material".

27.39. In this regard, as per 2008-09 AAI Traffic Statistics, the share of cargo volumes at CSI Airport, Mumbai, as a percentage of total cargo, is 32.14% - which is greater than 2.5% Materiality Index. Hence, the cargo services at CSI Airport, Mumbai is deemed "material".

27.40. Further, at CSI Airport, Mumbai, Air India is also providing cargo facility services. Hence, as per the CGF Guidelines, the cargo service at CSI Airport, Mumbai is also deemed "Competitive".

27.41. Thus, as per the CGF Guidelines, the cargo services rendered by MIAL at CSI Airport, Mumbai is deemed "material but competitive". In case of "material but competitive" service, as per CGF Guidelines, the Authority had decided to determine the tariffs under "light touch approach". Accordingly, the tariffs for cargo facility service being provided by MIAL at CSI Airport, Mumbai merit to be determined under "light touch approach".

27.42. Regarding tariffs for cargo facility services, MIAL, vide their letter dated 13.09.2012, submitted as under:

> *"These charges have remained same effective April, 2009 and no increase is currently proposed into the same. Schedule of cargo charges and Demurrage are being provided to the Authority as requested by it, without prejudice and contention of MIAL that cargo revenues and Demurrage accruing to MIAL is part of revenue from Revenue Share Assets as per provisions of SSA and only 30% of the same should be considered as cross subsidy for the purpose of tariff determination."*

27.43. MIAL have also included the tariffs for cargo services being provided by them at CSI Airport, Mumbai, in the same letter dated 13.09.2012 (also extracted out and presented **in Annexure VII**).

27.44. It is noted that as the cargo service at a major airport namely, CSI Airport, Mumbai, is an aeronautical services, hence, the Authority has to determine tariffs for the same. Further, as per CGF Guidelines, the tariffs for cargo facility service being provided by MIAL at CSI Airport, Mumbai merits to be determined under "Light Touch Approach", as the service is "Material but Competitive". Also, MIAL has not proposed any revision/increase in the tariffs for cargo service.

27.45. Further, as MIAL is in the process of outsourcing cargo services to third party concessionaires, the Authority observed that upon the concessionaire taking over the provision of cargo services, there may be a time lag between the time it takes over the service provision and the application to Authority for determination of tariffs by such concessionaire. In such a case, there may be a period where the third party concessionaire would not have any approved/determined charges but would be providing the cargo service. In order to address such a possibility of a tariff vacuum, the Authority may consider a scenario wherein the third party concessionaire is permitted to continue charging the tariffs – as existing on the date of its taking over the service provision. However in case such third party concessionaire wants to increase the rates, prior determination of the same by the Authority will be required.

Tentative Decision No41. Regarding the Cargo Facility Services at CSI Airport, Mumbai.

41.a. **The Authority tentatively decided to determine the tariff for cargo facility services provided by MIAL at CSI Airport, Mumbai under "Light Touch Approach" for the current control period.**

41.b. **The Authority tentatively decided to determine the tariffs for cargo facility services (including demurrage) provided by MIAL at CSI Airport, Mumbai during the current control period with effect from 01.09.2009 as at Annexure VII. Further the demurrage free period will be as per Government instructions issued from time to time.**

41.c. **The Authority tentatively decided to permit the third party concessionaires (as and when appointed for provision of cargo facility services at CSI Airport, Mumbai) to charge the tariffs as were being charged by MIAL on the date of taking over the service (i.e. as per Annexure VII). However in case such third party concessionaire wants to increase the rates, prior determination of the same by the Authority will be required.**

28. Summary of tentative views

29. Stakeholder Consultation Timeline

29.1. In accordance with the provisions of Section 13(4) of the AERA Act 2008, the proposal contained in the Summary of Tentative views (para 28 above) read with the Authority's analysis, 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 (Annexure – I-A to VII). 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.

29.2. The Authority welcomes written evidence-based feedback, comments and suggestions from stakeholders on the proposal made in para 28 above, **latest by Monday, 12.11.2012** at the following address:

Capt. Kapil Chaudhary
Secretary
Airports Economic Regulatory Authority of India
AERA Building,
Administrative Complex,
Safdarjung Airport,
New Delhi- 110003
Email: kapil.chaudhary@aera.gov.in
Tel: 011-24695040
Fax: 011-24695039

Yashwant S. Bhave
Chairperson

30. List of Tables

31. List of Annexures

Annexure I-A	Correspondences dated between 20.10.2010 and 11.10.2011*
Annexure I-B	Correspondences dated 23.11.2011*
Annexure I-C	Correspondences dated between 14.02.2012 and 18.08.2012*
Annexure I-D	Correspondences dated between 20.08.2012 and 14.09.2012*
Annexure II	Submissions and correspondences pertaining to DF and Project Cost
Annexure III	Report of the Financial Auditor
Annexure IV	Report of the Technical Auditor
Annexure V	NIPFP Report
Annexure VI	Correspondences related to Cargo
Annexure VII	Tariff / Rate card for MIAL

* -MYTP Submissions along with correspondences pertaining to GA and FTC